



APPENDIX  
VOLUME II

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IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1976

Nos. 76-777, 76-933, 76-934, 76-935

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PEGGY J. CONNOR, ET AL.,

—v.—

*Appellants*

CLIFF FINCH, GOVERNOR OF THE STATE OF MISSISSIPPI,  
ET AL.

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CLIFF FINCH, GOVERNOR OF THE STATE OF MISSISSIPPI,  
ET AL.,

—v.—

*Appellants*

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UNITED STATES OF AMERICA

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APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI

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DOCKETED DECEMBER 8, 1976, AND JANUARY 5, 1977  
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JANUARY 17, 1977.

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## TRANSCRIPT OF PROCEEDINGS

United States District Court  
Southern District of Mississippi  
Jackson Division  
May 7, 1975

DR. GORDON G. HENDERSON

\* \* \*

[73] BY MR. PARKER: The plaintiffs call Dr. Gordon G. Henderson.

GORDON G. HENDERSON, called as a witness for and on behalf of the Plaintiffs, was sworn and testified as follows:

## DIRECT EXAMINATION

BY MR. PARKER:

Q. State your name and address, please, for the record, Dr. Henderson.

A. I am Gordon G. Henderson, 1536 Winchester, Jackson, Mississippi.

[74] BY JUDGE COX: Gordon what?

BY THE WITNESS: Henderson.

BY JUDGE COX: Thank you.

BY MR. PARKER:

Q. What is your current position, Dr. Henderson?

A. I am professor of Political Science and director of the Computer Center at Tougaloo College, Tougaloo, Mississippi.

BY MR. PARKER: May it please the Court, we have obtained the original of the deposition of Henry J. Kirksey—excuse me for interrupting your testimony, Dr. Henderson. We also have, this is the deposition of Mr. Kirksey and documentary exhibits which are contained in the vault. Mr. Kirksey, as we indicated to the Court last time, had prepared and has drawn, and this deposi-



tion contains the evidence of a second single member statewide redistricting plan for the Mississippi House and the Mississippi Senate that equalizes population among the districts within variances of 5 percent. So this is the second plan of single member districts statewide to which this deposition is evidence.

[75] BY JUDGE COLEMAN: Let that be admitted.

(Received and marked in evidence as Exhibit P-25.)

BY MR. PARKER:

Q. Let me hand you your curriculum vitae, Dr. Henderson, and ask if this is a correct description of your qualifications and education. Hand a copy of it to the Court, please.

BY JUDGE COLEMAN: Are you proposing to qualify this gentleman as an expert in some particular field?

BY MR. PARKER: Yes, Your Honor.

BY JUDGE COLEMAN: In what field?

BY MR. PARKER: Dr. Henderson is professor of Political Science and director of the Computer Center at Tougaloo College. We propose to present him as an expert in census data, computers, computer programming, statistics, political science, legislative redistricting and county redistricting.

BY JUDGE COLEMAN: Do you care to challenge his qualifications as an expert, Mr. Attorney General?

[76] BY MR. SUMMER: We certainly challenge his qualifications insofar as the last two or three, you were going so fast there you lost me. I have not seen his qualifications yet, I would presume he is qualified as a political science expert, and computers since he is in that field, but as an expert in redistricting and what else was it?

BY MR. PARKER: Legislative reapportionment.

BY MR. SUMMER: Legislative reapportionment. We would certainly challenge his qualifications in that field.

BY JUDGE COLEMAN: Well I was trying to save a lot of testimony that would have an inevitable result, to-wit: a finding that the gentleman is an expert, you

do concede that he is an expert in political science and in computers so you may now qualify him if you can, Mr. Parker, on legislative reapportionment.

BY MR. PARKER: We ask that his curriculum vitae be admitted in evidence at this time.

BY JUDGE COLEMAN: It will be admitted.

(Received and marked in evidence as Exhibit P-26.)

[77] BY MR. PARKER:

Q. Dr. Henderson, would you describe to the Court your background and experience in legislative reapportionment and congressional redistricting, and also your formal training?

A. My formal training of course basically is a Doctor of Philosophy Degree in Political Science from Columbia University in New York City. I have been a teacher at the college and university level since 1956. I served on the staff of the Governor of Arizona and took an active, both privately and campaign managements, and in various affairs related to particularly the Arizona Legislature by virtue of the fact that my chief responsibility in the Governor's office of Arizona was legislative liaison. In my teaching which includes the field, broad field of American Government, I have had numerous occasions since 1956 when I began teaching at Rutgers University to deal with districting and apportionment, and since computers, especially within the last 10 to 12 years have become extensively used in redistricting and reapportionment I have in the course of my class preparation and research interest got into the business of using computers for redistricting repeatedly and extensively.

Q. Have you testified in any county redistricting on [78] legislative reapportionment cases?

A. I have testified in three, the Smith County districting case, Bassett versus Moore; the Hinds County redistricting case, Kirksey versus Hinds County Board of Supervisors; and the earlier version of this case, Conner versus Johnson.

Q. You testified by deposition?

A. By deposition.

Q. Have you written, have you published any books or are you about to publish any books?

A. I have written a book which is the product of approximately six years effort which will be published the publishers say, Harper and Rowe, in September, dealing with political parties. It is called specifically *An Introduction To Political Parties*, and it deals with, among other cases, single member districts, why the political science profession today generally thinks that they are, they produce more effective representation than multi-member districts, that deals, that contains a mention about a half a paragraph long, a brief summary of this particular case and deals with other matters related very directly to Conner versus Waller.

Q. And what is the title of the book?

A. It's called *An Introduction To Political Parties*.

[79] Q. And does devote itself in large part to legislative redistricting and apportionment?

A. It does.

BY MR. PARKER: We tender the witness, Your Honor.

BY JUDGE COLEMAN: He will be—

BY MR. ALLAIN: (Interrupting) Court please, he was tendered, I believe, in the Kirksey case as an expert witness in county redistricting, and Judge Nixon found him as not an expert in that area which is this Court I know sitting in one judge, but he found he was an expert in the field of political science and political behavior and political attitudes but not in the field of county redistricting. And one of the cases which he used to buttress his expertise was the Kirksey case which he was found not to be an expert in.

BY MR. PARKER: Let me ask this question, Your Honor.

Q. Since your testimony in the Kirksey case have you testified in other redistricting cases?

A. Yes, in Bassett versus Moore.

Q. Involving redistricting of what county?

A. Smith County.

[80] Q. What was—

A. (Interrupting) Also before Judge Nixon.

Q. And was your testimony accepted as an expert witness?

A. Yes.

Q. And was the result, the decision in that case, did it reflect your testimony and rely on your testimony?

A. Yes, it did.

BY JUDGE COLEMAN: Well I think that we should accept his testimony as an expert in these fields. I don't know just what special magic there is to expect testimony when the law is that the Court does not have to accept the word of an expert testimony unless it accepts it to be true. The Supreme Court itself has held that a man who calls himself an expert or who is one is not entitled to any more credibility than any other witness would be. It just means that he has special knowledge on a special subject, so we will accept this gentleman's testimony as an expert.

BY MR. PARKER:

Q. Would you describe for us, Dr. Henderson, what you teach at Tougaloo and what you taught at Texas Tech?

BY JUDGE COLEMAN: Now we have already accepted him as an expert in the field now, please, so let's move on to what he's going [81] to tell us about this case.

BY MR. PARKER:

Q. At my request, Dr. Henderson, have you performed an experiment with legislative reapportionment in Mississippi?

A. Yes, I did.

Q. When was this?

A. It was in the period between December of 1972 and April of 1973.

Q. What was the substance of this experiment, what did you attempt to do?

A. I accepted criteria which I was given by you for the purpose of designing a reapportionment plan for the Mississippi House and for the Mississippi Senate



which overall would have variances less than that in the existing plan.

Q. And what criteria did you employ in this experiment?

A. There was several criterion. What I am looking at in my hand are my notes so that I will make sure to cover all of them. First, that there should be 122 members in the House, 52 members in the Senate, that the data used should be population figures from the 1970 census, that the plan should not break county boundaries, that counties therefore, integral counties, should serve as building blocks, that the plan if [82] possible should provide districts more equal in population than those then existing, and that the combination of counties should be minimized, specifically that the plan should not include, should not provide for any district that combined more than three counties. And finally, that counties should not be considered contiguous if they only touched at a point, that they must share a common border that could be measured in miles.

Q. On your combining of three counties, no more than three counties, was this both the House plan and the Senate plan or only in one?

A. That was only in the House plan.

Q. Okay, employing these criteria what procedure did you use to perform this experiment?

A. My immediate job was to design a computer program that I could use at Tougaloo College in our computer center to come up with a computer generated plan that would meet all of these criteria.

Q. And did you so program your computer?

A. Yes, I did. I wrote a program which I refer to then and now as the Reapportionment Main m a i n Program. If I need to refer to it again that is the program that generated or will generate plans when it is used.

BY MR. ALLAIN: [83] Court please, if this is all in the deposition which has been previously introduced we would object to it as repetitious.

BY JUDGE COLEMAN: Have you already introduced this gentleman's proof by deposition, I had not gathered that.

BY MR. PARKER: His testimony, Your Honor, consists of two parts. One part will be live testimony so that the Court may hear it on Dr. Henderson's experiment showing that using whole counties without breaking any county boundaries the variances in the House plan and Senate plan can be considerably decreased than they are now. Secondly,—

BY JUDGE COLEMAN: Now have you already got that in in the deposition?

BY MR. PARKER: That is in his deposition.

BY JUDGE COLEMAN: Well, obviously I don't think we ought to have to duplicate that. Now what else do you propose to prove by him?

BY MR. PARKER: Secondly, we intend to prove that there are alternatives, numerous alternatives, even preserving whole [84] counties intact that would have provided districts with equivalent variances or smaller variances than the present districts which do not combine black majority counties with white majority counties to create district wide white majority.

BY JUDGE COLEMAN: Is that likewise in the deposition?

BY MR. PARKER: No, that is not in the deposition.

BY JUDGE COLEMAN: All right. Well now let's steer clear of the proof you've got in the deposition. We already have that, just let him go ahead and testify though on any and all subjects that he has not already given us the benefit of in his deposition.

BY MR. PARKER: Could I at least ask the witness, Your Honor, to identify these maps which we have prepared as the product of his work?

BY JUDGE COLEMAN: Certainly.

BY MR. PARKER:

Q. Ask if you can identify these maps, Dr. Henderson?

A. I can identify them, would you like for me to tell what they are?



[85] Q. Yes, would you tell us what they are.

A. As the result of the use of the computer program I described as the Reapportionment Main Program three plans were generated, two plans for the House and one for the Senate and from the computer printouts which provided a good deal of information about each of the districts I then drew these maps and these are, I assume, Xerox copies of the original maps which I still have the original copies of.

BY MR. PARKER: Hand those up to the Court, please. Ask that these maps be admitted in evidence, Your Honor, as the product of Dr. Henderson's work.

BY JUDGE COLEMAN: They may be admitted.

(Received and marked in evidence as Exhibit P-27.)

BY JUDGE COLEMAN: Apparently we have Senate and House and House, do you have maps for both the Senate and the House?

BY MR. PARKER: Yes.

BY JUDGE COLEMAN: Well I'm only holding a House map, Judge Russell has a House map, Judge Cox has a Senate map. Suppose you give us the maps for both, please, sir, if you have [86] them.

BY MR. PARKER: We have two House plans and one Senate plan.

BY JUDGE COLEMAN: All right. Well now let's see, just a minute now, the one that Judge Russell is holding here is 4-18-73, the one I have is 3-10-73, so I'll give you both of those, Judge Russell.

BY MR. PARKER: Just handed up copies for all the judges of the three maps.

(Off the record discussion between members of the Court.)

BY JUDGE COLEMAN: All right.

BY MR. PARKER: Q. State again for us, Dr. Henderson, the variances contained in your plans. Refer please to the exhibit.

BY JUDGE COLEMAN: Have these maps been marked, have they been admitted in evidence and marked?

BY DEPUTY CLERK: Yes, sir.

BY JUDGE COLEMAN: All right. Well of course it's not necessary for him to state that except to point out anything that might [87] be of crucial importance. In other words the maps speak for themselves is what I'm trying to say.

BY MR. PARKER: Yes.

Q. Variances for the House plan 10.62, second House plan 13.06. These are the total deviations, total plus and minus?

A. Yes, sir.

Q. And the senate plan is a total deviation from population equality of 10.51 percent, is that correct?

A. Correct.

Q. And that's total plus and minus?

A. Yes, it is.

Q. So all three of these plans then beat the variance of the current House plan and Senate plan by approximately 8 to 9 percentage points, is that correct?

A. That is correct.

BY JUDGE COLEMAN: How do they compare as to average variance? I mean you can have one or two counties or one or two districts where you will have, say a 19 percent variance possibly forced by geographical situations, you start at the Tennessee line and you're going to wind up at the Gulf where you can go no farther and so forth. I would like to know how your plan varies from the 1975 [88] Legislative Act on average variance throughout the state as, you know, average variance between all districts.

BY THE WITNESS: Your Honors, let me give you five figures. The maximum plus deviation on the House plan is plus 6.74, the maximum minus is minus 6.32. Those two figures I believe you have before you on one of—right. Now, the districts in the seats over plus or minus 4 percent is 5. The district or the seats over plus or minus 6 is 3, and districts over plus or minus 8 are zero, and in terms therefore of average deviation over the entire districts the average is much lower than under the existing plan.

BY JUDGE COLEMAN: Well now you are qualified as a computer expert, and this Court needs all the help

it can get on this matter, I'm asking you to tell us specifically what the variance is between your plan, average variance throughout the entire state, and the one enacted by the Legislature. For example, one percent of the norm on one of these cases only amounts to what, 180 people.

BY THE WITNESS: In the House, yes.

[89] BY JUDGE COLEMAN: In the House. So as the Supreme Court recognized in various jury discrimination cases, percentages don't mean too much, do not mean too much unless you know what the percentage involves. In your House plan, for example, a one percentage deviation is only 180. In the Senate it would be what, approximately 400?

BY THE WITNESS: Approximately.

BY JUDGE COLEMAN: Right. Now, to get the real picture as to whether or not anybody has been discriminated against on a one man one vote basis, I'm not talking about racial basis now which is a different question, but on a one man one vote basis I would like to have the real computerized figures as to the distinction and average variations between your plan and the plans that the Legislature finally in a, by collecting a majority of somewhere for some particular bill finally enacted a law. Can you give us—

BY THE WITNESS: (Interrupting) Your Honors, I am not sure that I can lay my finger on that right now.

BY JUDGE COLEMAN: But you could do it, couldn't you, if you were given [90] the time?

BY THE WITNESS: I could do it, yes, I did do it.

BY JUDGE COLEMAN: All right. Now let's keep this in mind then, when you do complete your testimony we would like for you to make that calculation, have plenty of time to be sure you are doing it accurately and not under the pressure of being on the Witness Stand and then give it to us.

BY THE WITNESS: I will be happy to do so.

BY JUDGE COLEMAN: Very good.

BY MR. PARKER:

Q. Under these three experimental drawings are any county lines broken?

A. None.

Q. Can you tell us whether these plans that you have drawn provide the minimum possible variances from population equality in House and Senate districts using the criteria that you enunciated in your testimony?

A. They do.

Q. Are you proposing to the Court that these plans be [91] used as a remedy to remedy the complaint of discrimination, racial discrimination, that plaintiffs have made?

A. No, I'm not.

Q. Why not?

A. Because they were not designed for that purpose. They were as you have described, an experiment, as I would describe them, it really comes down to the same thing as an exercise. Furthermore they are incomplete. They do contain multi-member districts and there is nothing, no indication, not was I requested by you to make a decision or to make a recommendation as a part of the plan as to whether there should be place or residence requirements or whether lines should be drawn for single member districts within these multi-member districts. And finally, they do contain multi-member districts by implication because I did not attempt to eliminate multi-member districts. And as I have said previously, I think the standard finding of political science, professional political science today in this country, is that single member districts are to be avoided.

Q. I'm sorry, I didn't hear you.

A. That single member districts are to be avoided in a reapportionment scheme.

[92] Q. Single member districts—

BY JUDGE COLEMAN: I beg your pardon, how many members, what is the largest number of representatives or senators provided in any one district in your plan? Do you have more than, do you have more than five in any one district, for example?



BY THE WITNESS: Not that I remember. I believe not almost certainly.

BY JUDGE COLEMAN: I suppose we should have a written tabulation of this by counties, we might not altogether read the maps correctly because the county boundaries are in black and so are the district boundaries, the district boundaries are a little more heavily shaded if we are able to pick it up. Do you have a compilation by district number and the counties in the district and so forth?

BY MR. PARKER: Excuse me, Your Honor. If I may answer that is contained in the exhibits to the deposition, Your Honor, the computer printout.

BY JUDGE COLEMAN: Oh, that is in the deposition, very good. Now then I wanted to ask you this one further question. You have [93] just made a statement about what the political scientists think, which of course political scientists are entitled to their views on that subject. Have you studied the decision of the Supreme Court of the United States of *Mayhan v. Howell*?

BY THE WITNESS: That's a Virginia case?

BY JUDGE COLEMAN: Right.

BY THE WITNESS: Yes, I have, last year.

BY JUDGE COLEMAN: And you are aware of the fact that in one particular county up near Washington the Virginia legislature had a county that was entitled to 10 representatives. They broke the county into two districts, five to each district, and the Supreme Court of the United States allowed that to stand as a reasonable exercise of legislative discretion. You are familiar with that in *Mayhan v. Howell*?

BY THE WITNESS: Yes.

BY JUDGE COLEMAN: I wonder what your understanding as a political scientist is of the rationale which prompted the [94] Supreme Court to allow that kind of result to stand because Virginia is a state that is under the Voting Rights Act the same as Mississippi.

BY THE WITNESS: I really haven't thought about that too carefully, Judge Coleman, but what I would say as a political scientist, I think, is that it must have been something in the presentation of the record that

led to that result, something perhaps unique to *Mayhan* versus *Howell* situation.

BY JUDGE COLEMAN: Well there were numerous districts in Virginia that elected more than one member which flies straight into the face of your basic proposition that all districts should be single member districts. You say that political scientists are agreed on that, you didn't say whether that was a matter of constitutional law or not.

BY THE WITNESS: I would not have said that.

BY JUDGE COLEMAN: As a matter of constitutional law.

BY THE WITNESS: As a matter of constitutional law. The closest that one could find, or that I would find to that, would be [95] the South Dakota case, which you have cited here at the last hearing, as a matter of fact.

BY JUDGE RUSSELL: North Dakota.

BY THE WITNESS: North Dakota case, I'm sorry.

BY JUDGE COLEMAN: Well of course the extent of our jurisdiction as a Federal Court dealing with a State matter is constitutional law. We have no business in this case whatever except to enforce the Federal Constitution. Of course you realize that I'm sure as a man who has a Doctor of, Doctor's Degree in Political Science.

BY THE WITNESS: Yes, sir.

BY JUDGE COLEMAN: Go ahead, Mr. Parker.

BY MR. PARKER:

Q. I might have misunderstood you, Dr. Henderson, but I heard you to say that single member districts are to be avoided. Was that what you intended to say?

A. Statements like single member districts are to be avoided are to be avoided. I did not, I meant to say precisely the opposite, that single member districts are to be preferred; multi-member districts are to be [96] avoided. I apologize.

Q. And does this represent substantial predominant view within the political science profession today?

A. At the present time I think it is the view which you will find clearly presented in the professional literature.

Q. Now have you examined House Bill 1290 and Senate Bill 2976?

A. Yes, I have.

Q. Do these bills provide the most equality of population it is possible to achieve, even keeping county boundaries intact?

A. No, they do not.

Q. Have you attempted to determine how many plans it is possible to derive using this county unit system keeping county boundaries intact and provide more equality of population among the districts than House Bill 1290 and Senate Bill 2976?

A. Yes, I have.

Q. What procedure did you use to do that?

A. This brings me to the second of the computer programs which I wrote in early April of 1973 to which I give the name The Reapportionment Combo C o m b o Program, and—

BY MR. ALLAIN: [97] (Interrupting) Court please, all this has been in the deposition.

BY MR. PARKER:

Q. Well without going into the program—thank you, counsel, without going into the program how many plans is it possible to draw keeping county boundaries intact and provide more equality of population than House Bill 1290 and Senate Bill 2976?

A. At least several hundred.

BY JUDGE COLEMAN: That raises the question in my mind, if there are at least several hundred methods by which it could be avoided, how do you decide which one is to be preferred if it is going to be done on an inelastic the Court so orders basis. If you've got several hundred alternatives that would have given you a little better, little better, it would have to be only a little better, at least, uhh, you're going to tell us about that after you make these computations that I've asked you for. Which one is preferable, does it come down altogether to a matter of numbers or there any other

factors the legislature might have in mind as to which number it might prefer?

BY THE WITNESS: Well, clearly I think the one man one vote rule is [98] going to be a consideration and that's going to involve mere counting of numbers, certainly, whether it can be challenged as being racially discriminatory is another consideration. There are going to be other considerations.

BY JUDGE COLEMAN: In other words, I think we might as well face up to it, shouldn't we, that it's not a matter of pure dee mathematics only as to the division of the population, because if it were all you would have to do would be to crank up the computer and of course nobody else would ever have to intervene, but there are other factors which the Supreme Court recognizes that a state may consider as to which is the preferable number so long as it is not so aggrievous as to be entirely out of line. Now, as counsel has pointed out we've got a greater variance here in some districts than has ever been accrued before. I think it was about 16 percent was the maximum in Virginia, wasn't it?

BY MR. PARKER: That's correct.

BY JUDGE COLEMAN: In Mayhan V. Howell, so when we are talking about there are a hundred or more better plans numerically our con- [99] sideration doesn't really stop there, does it, in your view as an expert, as a political scientist?

BY THE WITNESS: No, sir, it does not stop there.

BY JUDGE COLEMAN: All right.

BY MR. PARKER:

Q. I'll ask you if you have examined these multi-member floatorial districts in House Bill 1290 and Senate Bill 2976 to determine their effect on black population concentrations?

A. Yes, I have.

Q. What have you found?

A. As a result of your request to me to make the studies I have prepared two memoranda which I would like to bring out now, if I may.



Q. Well before you get into the memoranda could you describe for us whether in your view these multi-member and floatorial districts have a dilution effect on black voting strength?

BY JUDGE COLEMAN: First now you must state whether you have an opinion. If you do, state the opinion and then we want the basis for this.

BY THE WITNESS: [100] I have an opinion.

BY JUDGE COLEMAN: All right.

BY THE WITNESS: And that opinion is that in fact multi-member districts, which several can be identified in the existing plan, does indeed serve to dilute black voting strength.

BY JUDGE COLEMAN: All right, now let's identify the districts.

BY MR. PARKER:

Q. Let me hand you these two maps, Dr. Henderson, and ask you whether these maps accurately reflect the dilution that you have testified to?

BY JUDGE COLEMAN: First now tell me the districts, are you talking about the House or the Senate or both?

BY THE WITNESS: I will be talking about both.

BY JUDGE COLEMAN: All right. Tell me first the House districts in which you think that there has been a racial dilution by the 1975 legislation.

BY THE WITNESS: In the Senate Districts 1, 8, 16, 18, 19, 24, that's it.

[101] BY JUDGE COLEMAN: All right, sir. Now tell us why you think that there is racial dilution in each of these districts.

BY THE WITNESS: In each of these districts—

BY JUDGE COLEMAN: Take them one at a time, why is there racial dilution in number 1?

BY THE WITNESS: District number 1 consists of DeSoto, Lafayette and Marshall counties. Marshall is a black majority population county. It is given two seats and the variance is minus 1.37.

BY JUDGE COLEMAN: It's given two, you mean it is given two Senate seats?

BY THE WITNESS: Correct.

BY JUDGE COLEMAN: This district is given two senate seats?

BY THE WITNESS: Correct.

BY JUDGE COLEMAN: For a total population of how much?

BY THE WITNESS: 84,093.

[102] BY JUDGE COLEMAN: 84,093. How many people are there in Marshall County? You say it's a total black county, I don't mean total black but a majority of black.

BY THE WITNESS: The total population of Marshall County.

BY JUDGE COLEMAN: Yes.

BY THE WITNESS: Is 24,027.

BY JUDGE COLEMAN: Now that's about approximately 16,000 too few people to have a senatorial district of their own, isn't it?

BY THE WITNESS: That's correct.

BY JUDGE COLEMAN: So obviously it is going to have to be combined with somebody somewhere.

BY THE WITNESS: That is correct.

BY JUDGE COLEMAN: So who would you combine it with in order to avoid racial dilution?

BY THE WITNESS: Marshall County can be placed in 60 other districts, [103] all of which have a variance within the range of the Senate plan and several of these are districts with a majority of black population, including—

BY JUDGE COLEMAN: Let me interrupt you just a minute. I feel sincerely that you are getting a little extravagant or maybe it tends to mislead when you say 60 other districts, it couldn't possibly be contiguous to 60 other counties. I'm asking you what other counties could Marshall be combined with to avoid this racial dilution, and I'm very interested to know that.

BY THE WITNESS: Well, I have to—

BY JUDGE COLEMAN: What other counties?



BY THE WITNESS: Well I can begin by giving you one example. One possibility is combining Marshall with Tate and that would give you a population 55.55 percent black entitled to one senate seat and the variance of minus .14.

BY MR. PARKER:

Q. What is the variance of the current district 1 as determined by Senate Bill 2976?

A. Minus 1.37.

[104] BY JUDGE COLEMAN: Excuse me, what I'm getting at is, see we've been through this thing in '67 and '71, we've been living with this reapportionment thing for 10 years and out of sheer necessity we have acquired some acquaintance with it, and of course if you were to combine Marshall with Tate then you would of course have to shift the other districts around in order to meet the population norms, wouldn't you?

BY THE WITNESS: That's correct.

BY JUDGE COLEMAN: Okay. Now then, anyway Marshall County alone has to be combined with somebody?

BY THE WITNESS: That is correct.

BY JUDGE COLEMAN: Now your next district was the eighth district, wasn't it?

BY THE WITNESS: That's right.

BY JUDGE COLEMAN: And what district is that?

BY THE WITNESS: This is the district that contains Panola, which is a [105] majority black population, with Yalobusha.

BY MR. PARKER:

Q. What is the racial composition of Yalobusha, I mean is it white majority or black majority?

A. Yalobusha?

Q. Yes.

A. It's white majority.

BY JUDGE COLEMAN: How much?

BY THE WITNESS: There are approximately 7,000 whites in Yalobusha and 4800 blacks.

BY JUDGE COLEMAN: So you've got a—

BY THE WITNESS: (Interrupting) I could calculate it if you would like, I brought a calculator.

BY JUDGE COLEMAN: Very good, let's calculate it. What is the white majority in Yalobusha County, the actual white majority according to the census of 1970?

BY THE WITNESS: 59.8.

BY JUDGE COLEMAN: I'm not talking about percentages now, I'm talking about [106] people. People vote, not percentages. What is the actual number in people of white majority in Yalobusha County?

BY THE WITNESS: There are 7,071 white persons in Yalobusha as of the 1970 census.

BY JUDGE COLEMAN: And how many blacks?

BY THE WITNESS: 4,814.

BY JUDGE COLEMAN: All right, now then that gives you a white majority of how many?

BY THE WITNESS: Approximately 60 percent.

BY JUDGE COLEMAN: You've got a calculator, give me the actual number.

BY THE WITNESS: Oh, I see.

BY JUDGE COLEMAN: 2257, isn't it?

BY THE WITNESS: Yes, it is.

BY JUDGE COLEMAN: All right. Now what is the black majority in Panola [107] County?

BY MR. PARKER: Just give him the figure.

BY THE WITNESS: 692.

BY JUDGE COLEMAN: So that's a black county only by 692?

THE WITNESS: That's correct.

BY JUDGE COLEMAN: Out of a total of what?

BY THE WITNESS: In the—

BY JUDGE COLEMAN: In the entire county. What I'm saying is this is not an overwhelmingly black county, apparently.

BY THE WITNESS: It is not an overwhelmingly black county, it is a black majority county.

BY JUDGE COLEMAN: Now it's a black majority county but that, I don't want to stop at that, I'm trying to develop a record here in which we can see the whole

picture. How many white people and how many black people are in Panola County?

BY THE WITNESS: [108] 13,061 white.

BY JUDGE COLEMAN: All right.

BY THE WITNESS: 13,753 black.

BY JUDGE COLEMAN: Black. Which means you've got a black preponderance maybe of what, one percent, two percent?

BY THE WITNESS: In that rate, certainly.

BY JUDGE COLEMAN: Just about two percent. Now that's hardly enough to have any appreciable impact on an election if everybody, if all the blacks were voting for a black and all the whites were voting for a white, does it?

BY THE WITNESS: That's a difficult question to answer.

BY JUDGE COLEMAN: It's not like Marshall County, for example, is it?

BY THE WITNESS: No.

BY JUDGE COLEMAN: Marshall has a much larger percentage of black people?

BY THE WITNESS: Correct.

[109] BY JUDGE COLEMAN: Now let's go to your District 16, what district is that?

BY MR. PARKER: Let me ask.

BY JUDGE COLEMAN: Yes.

BY MR. PARKER:

Q. District 8 is a district wide white majority, is that correct?

A. I'm sorry?

Q. District 8, Senate District 8, who predominates in that district, white or black?

A. Whites.

BY JUDGE COLEMAN: Well, neither one of these counties has enough people to elect a Senator, that's for sure. But if Yalobusha could elect one the whites would have an overwhelming majority. If Panola could elect one, if they had enough people and could elect one, they

would have a two percent black majority and that's what we're talking about here, isn't it?

BY THE WITNESS: Yes.

BY JUDGE COLEMAN: [110] That's right.

BY MR. PARKER:

Q. Is it possible to combine Panola with any other counties that would not yield a district wide white majority, that would in fact yield a district with a majority of black population?

A. Yes, there are 16 such possibilities.

Q. Would you give us one example?

A. Panola can be combined with Quitman for a district that is 53.54 percent black.

Q. What is the variance of that district?

A. .20.

Q. And what is the variance of the present district in which Panola, a black majority county, is combined with Yalobusha, a white majority county?

A. Minus 9.11.

Q. So there's a difference of 9 percentage points of variance?

A. Approximately, yes.

BY JUDGE COLEMAN: Would you as a political scientist who has made a special study of this, and obviously your credentials indicate that you are very knowledgeable, would you think that 3., a 3 percent difference in black and white people has any real significance in the overall [111] picture of how an election is going to turn out, even in Mississippi? Based on your studies and your knowledge and your experience, are you prepared to tell us testifying as an expert that that 3 percent difference has any real significance when they get to the ballot box and look at the candidates and look at them as individuals and consider their qualifications and all that business?

BY THE WITNESS: My answer to that would be that that is a small enough percentage difference as to make predictions difficult.



BY JUDGE COLEMAN: Well I think that is a fair answer and I congratulate you. Now let's take 18, District 18. District 18 is the next district.

BY THE WITNESS: I thought—

BY JUDGE COLEMAN: Excuse me, I may have skipped one.

BY THE WITNESS: 16.

BY JUDGE COLEMAN: You're right, 16.

BY THE WITNESS: [112] 16 contains three counties, Attala, Carroll, which is a majority black population, and Leake. And the total black population of that district is 40 percent. It has one seat, and the variance under Senate Bill 2976 is 8.02.

BY JUDGE COLEMAN: Carroll County is the only predominately black county in that district?

BY THE WITNESS: That's correct.

BY JUDGE COLEMAN: And what is the difference in people in numbers between the white and the black population, not in percentage points. The reason I put that is because percentages in the House amount to only, one percentage point amounts to only 180 people.

BY MR. PARKER: These are the Senate Districts, Your Honor.

BY JUDGE COLEMAN: All right, and the Senate amounts to only 400.

BY MR. PARKER: 420.

BY JUDGE COLEMAN: 420.

BY MR. PARKER: [113] 426.

BY JUDGE COLEMAN: 426. You keep raising the bid, all right. What is the difference—

BY THE WITNESS: (Interrupting) Carroll County—

BY JUDGE COLEMAN: (Continuing) between white and black in Carroll?

BY THE WITNESS: Do you want just the difference or do you want all three figures?

BY JUDGE COLEMAN: How many white people, how many black, and what is the difference, we'll follow that format for all the rest of these districts. I'm going to look at them because you say after your long study

that these are the ones that we ought to concentrate on so we'll do that.

BY THE WITNESS: Total population is 9,397, population black is 4,771, and the difference is—

BY JUDGE COLEMAN: White is how much?

BY THE WITNESS: 4,626.

[114] BY JUDGE COLEMAN: 4626 white?

THE WITNESS: Right.

BY JUDGE COLEMAN: You mean that there's only 145 difference between white and black in Carroll County?

BY THE WITNESS: That's correct.

BY JUDGE COLEMAN: So that makes it a black majority county but it doesn't have near the majority I would have thought it had. It's not a predominately black county by any means, is it?

BY THE WITNESS: It's a majority black county in percentages.

BY JUDGE COLEMAN: In percentages.

BY THE WITNESS: In percentages, correct.

BY JUDGE COLEMAN: I'm getting down to the realities of people and numbers. There's a great desire on everybody's part you know to settle everything by percentages, but percentages can be very misleading, it depends on [115] how many folks you are fooling with in the equation or in the percentage. So Carroll County only has to my surprise, and I've known it all my life, I used to serve as District Attorney and Circuit Judge in that county a long time ago, and it only has a majority of black of 145?

BY THE WITNESS: That's correct.

BY JUDGE COLEMAN: Okay, thank you. Now let's go on to the next one, 18, you were talking about 16, weren't you. What is the district, what is, what counties are in District 18?

BY THE WITNESS: District 18 under the present plan contains Noxubee and Oktibbeha.

BY JUDGE COLEMAN: Okay, sir. The total population of Noxubee is?

BY THE WITNESS: 14,288.

BY JUDGE COLEMAN: And Oktibbeha?

BY THE WITNESS: 9,397 black.

BY JUDGE COLEMAN: [116] No, I'm talking about the total population of both counties, Dr. Henderson.

BY THE WITNESS: Oh, of the district, I'm sorry.

BY JUDGE COLEMAN: No, it was both counties, of each county in the district, what is the total population of Noxubee County?

BY THE WITNESS: 14,288.

BY JUDGE COLEMAN: I so understood you, now what is the total population of Oktibbeha?

BY THE WITNESS: 28,752.

BY JUDGE COLEMAN: So neither of these, both of these counties have got to be combined with somebody, haven't they?

BY THE WITNESS: Yes.

BY JUDGE COLEMAN: In order to get anywhere close to the required norm. All right, Oktibbeha has a small white majority and Noxubee a considerable black majority?

BY THE WITNESS: I think I heard you backwards, I'm sorry.

[117] BY JUDGE COLEMAN: I said that is it, I'm speaking now from my recollection of prior testimony in this case. Oktibbeha has a small white majority of population?

BY THE WITNESS: It has about 65 percent.

BY JUDGE COLEMAN: It does?

BY THE WITNESS: Yes.

BY JUDGE COLEMAN: All right. Suppose you give us the figures on that then, please, sir, total of white and total of black.

BY THE WITNESS: All right.

BY JUDGE COLEMAN: In Oktibbeha County.

BY THE WITNESS: Let me give you the total population and then the total black and then the difference will be the whites.

BY JUDGE COLEMAN: All right.

BY THE WITNESS: 28,752.

[118] BY JUDGE COLEMAN: All right.

BY THE WITNESS: 10,004.

BY JUDGE COLEMAN: Now that's the black population?

BY THE WITNESS: Correct, 18,748 is the difference.

BY MR. PARKER: In fact there are 179 others, so the total white population of Oktibbeha is 18,569.

BY JUDGE COLEMAN: All right. Now we get over to Noxubee County, of course it's on the Alabama line. You can move it north or south or west but you can't move it east.

BY THE WITNESS: That's correct.

BY JUDGE COLEMAN: Now where would you move it?

BY THE WITNESS: There—

BY JUDGE COLEMAN: With reference to adjoining counties, it's got to be moved to some adjoining county, it adjoins Lauderdale on the South, let's see, Kemper on the South, it joins [119] Kemper on the South which is another predominately black county.

BY THE WITNESS: Right.

BY JUDGE COLEMAN: And then it adjoins Winston on the West, which is fairly evenly divided. Does it join Lowndes on the North?

BY THE WITNESS: Yes, and Oktibbeha.

BY JUDGE COLEMAN: And Oktibbeha.

BY THE WITNESS: There are two possible combinations of counties which will be majority black.

BY JUDGE COLEMAN: Okay.

BY THE WITNESS: One of them is Noxubee, Kemper and Winston.

BY JUDGE COLEMAN: Okay.

BY THE WITNESS: And that will give you a district with a population that is 51.73 percent black and the variance of .69.

[120] BY JUDGE COLEMAN: That's only a 1.73 percent majority for the blacks, and according to your prior testimony what that would mean is unpredictable as to the impact it would have on an election.

BY THE WITNESS: On an election in the future that was my—



BY JUDGE COLEMAN: As to between whites and blacks.

BY THE WITNESS: That was my prior testimony.

BY MR. PARKER: May I ask a question?

BY JUDGE COLEMAN: Yes.

BY MR. PARKER:

Q. My question, Dr. Henderson, is in which district would black voting strength count more, a district that's a white majority district, District 18, 23,431 whites and only 19,404 blacks, or a district that is 51.73 percent black?

A. In the second instance I think is correct.

BY JUDGE COLEMAN: I think that gives us a fairly good picture of District 18, now 19 must be somewhere nearby.

[121] BY THE WITNESS: It is, it's Kemper and Lauderdale.

BY JUDGE COLEMAN: Kemper and Lauderdale. All right, now Kemper is a very small county population wise and a large county area wise, one of the largest counties in the state in area. How many people are living in Kemper County of all shades?

BY THE WITNESS: 10,233.

BY JUDGE COLEMAN: 10,233, and how many in Lauderdale?

BY THE WITNESS: 67,087.

BY JUDGE COLEMAN: 087. Kemper County has about a fourth of enough people to qualify for one Senator?

BY THE WITNESS: Yes.

BY JUDGE COLEMAN: So you would combine it with Neshoba, I guess, you have already given Noxubee to Winston and Kemper only joins Noxubee, Winston, Neshoba and Lauderdale, cornered with Newton.

BY THE WITNESS: [122] Well, one of the possibilities that I indicated for District 18 is Noxubee, Kemper and Winston.

BY JUDGE COLEMAN: Oh, put those three together. So you would solve Noxubee and Kemper at one lick by putting both of them in one district, and that

district would come out with a 51.73 black margin?

BY THE WITNESS: That's correct.

BY JUDGE COLEMAN: All right, sir. Now let's go, Dr. Henderson, to your next and last district, I believe, 24.

BY THE WITNESS: 24 contains four counties, two of them are majority black. The counties are Claiborne, which is majority black.

BY MR. PARKER:

Q. What is the percentage?

A. 74.57 percent black. Copiah.

BY JUDGE COLEMAN: Well now how many people do we have in Claiborne County to be shifting around in a senatorial district of 40,000. It strikes me that there is less than 10,000 people in Claiborne County.

BY THE WITNESS: [123] 10,086.

BY JUDGE COLEMAN: Okay. Now your next county?

BY THE WITNESS: Copiah, which is also a majority black county.

BY JUDGE COLEMAN: And Copiah has immensely more people too, doesn't it?

BY THE WITNESS: 24,749.

BY JUDGE COLEMAN: Okay. Now if that were put in one district itself, suppose we put Claiborne and Copiah in one senatorial district alone, it would still be 6,000 short of a senatorial district—

BY THE WITNESS: (Interrupting) Approximately.

BY JUDGE COLEMAN: (Continuing) so we couldn't do that, could we?

THE WITNESS: You mean just leave it by itself a single district?

BY JUDGE COLEMAN: Yes.

BY THE WITNESS: No.

BY JUDGE COLEMAN: [124] No.

BY MR. PARKER:

Q. Who could you add to that?

A. Jefferson.

BY JUDGE COLEMAN: Okay.



BY MR. PARKER:

Q. And what would be the percentage black and the black majority district?

A. Of Claiborne, Copiah and Jefferson?

Q. Yes.

A. 61.08 percent.

BY JUDGE COLEMAN: How many people are in Jefferson County?

BY THE WITNESS: 9,295.

BY JUDGE COLEMAN: Just a few less than, well nearly a thousand less than Claiborne.

BY THE WITNESS: Claiborne.

BY MR. PARKER:

Q. What would be the variance of a district Claiborne, Copiah and Jefferson?

A. 3.51 percent.

[125] Q. And that would be one seat?

A. That would be one seat.

Q. And what is the variance when you combine Claiborne and Copiah black majority counties with Lincoln and Simpson, white majority counties, for an overall white majority?

A. That county, which is the present county, that district has two seats and the variance is minus 5.02.

BY JUDGE COLEMAN: We have not found out from you, what other county do they have in here with Claiborne, Copiah and Jefferson?

BY THE WITNESS: Lincoln and Simpson.

BY JUDGE COLEMAN: Is this five counties in this district?

BY THE WITNESS: No, I'm sorry, four; Claiborne, Copiah, Lincoln and Simpson.

BY JUDGE COLEMAN: We got off on theoretical districts, let's get back now, the district as it now stands is Claiborne, Copiah, and who else?

BY THE WITNESS: Lincoln.

BY JUDGE COLEMAN: [126] Lincoln and Simpson. Okay, so what you propose is instead of combining Claiborne with Copiah and Lincoln and Simpson, you

move it west, well you'd just bring in Jefferson and set up one district right there alone?

BY THE WITNESS: Correct.

BY JUDGE COLEMAN: Well then how would that leave Lincoln and Simpson, do they have enough for a senator? Let's see, Judge Russell do you have the population of Lincoln County there in front of you?

BY JUDGE RUSSELL: 26,198.

BY JUDGE COLEMAN: All right, and Simpson has what?

BY JUDGE RUSSELL: 19,947.

BY JUDGE COLEMAN: 947. That's 46,145 people on a norm of approximately 40,000. Of course that points up the problem when you start moving a county to take care of one problem you run into all kinds of others. How many districts did they set up altogether in this '75 law, I'm sorry, I haven't looked at it closely enough to remember. [127] Senatorial districts, how many did they set up altogether?

BY THE WITNESS: 22.

BY JUDGE COLEMAN: 22 total districts?

BY THE WITNESS: In the Senate.

BY JUDGE COLEMAN: That's what I say, they had 22 districts for the election of 53 Senators, 52 Senators, which is it?

BY THE WITNESS: 52.

BY JUDGE COLEMAN: 52. And there are six of the 22 districts that you think are out of line from a racial dilution standpoint, that's 1, 8, 16, 18, 19 and 24.

BY MR SUMMER: Court please, I think he's wrong on his districts—

BY JUDGE COLEMAN: Well let's get a copy of the bill right quick and see. The bill speaks for itself. There are 33 districts instead of 22, Dr. Henderson, according to this bill.

BY THE WITNESS: [128] I'm sorry.

BY JUDGE COLEMAN: 33 districts. All right. So out of 33 districts you say that there are 8 in which there's racial dilution—

BY MR. PARKER: (Interrupting) Your Honor,—

BY JUDGE COLEMAN: (Continuing) and you have explained your reasons for saying so.

BY MR. PARKER: He has not finished his testimony on that issue, Your Honor.

BY JUDGE COLEMAN: Well, are there any more districts? I thought you named 8.

BY THE WITNESS: In the Senate.

BY JUDGE COLEMAN: In the Senate, that's what I'm talking about, in the Senate. We are dealing with the Senate now. But out of 33 districts in the Senate you say 8 are out of line, but one of those districts, for example, only has a difference of 1.59 to 1.73 percent, which is approximately 600 people that's the difference between [129] black and white, but we'll weigh all that as we come to it. You may go ahead now, I think I've got it nailed down as to what he, as to which districts he thinks are out of whack and which are not.

BY MR. PARKER:

Q. Are there other districts in the Senate plan, Dr. Henderson, that are discriminatory because of county wide voting?

A. Yes, there are.

Q. What counties would those include?

A. To begin with, we can take the case of Hinds because of the operation there of at large elections in the Senate, the operation of at large election systems serve to dilute black strength in a county in which blacks are numerous to form a senate district of their own, and there are other counties of that same character.

Q. Would you name those counties?

A. Harrison, Lauderdale, Warren.

Q. These are all counties with substantial black population concentration?

A. Yes.

Q. And you're saying that black voting strength is diluted by county wide voting?

A. Correct.

[130] BY JUDGE RUSSELL: What is the black population of Harrison?

BY MR. PARKER: I think it's about 22,000, Your Honor.

BY JUDGE COLEMAN: If they were all picked up and put in one district to themselves they would only have half the total population for one Senator in Harrison County, isn't that so?

BY THE WITNESS: That's true.

BY JUDGE RUSSELL: I didn't think it was that high, that was the reason I was asking.

BY MR. PARKER: 22,743 according to my figures.

BY JUDGE COLEMAN: Well now how do you find discrimination in that situation? Suppose the Court took every black person in Harrison County and herded him off into an area for the election of one Senator. There would still have to be at least 18,000 white people in that same district with them, and then you would eliminate any possibility of as much as a black vote in the other senatorial districts in Harrison County. I don't [131] follow the logic of a lot of this. Is there any part of Harrison County that you could take it as it is and just arbitrarily carve out an area where you would have a majority of black people?

BY THE WITNESS: I have not attempted to do that, Judge Coleman. I would rather not respond to that.

BY JUDGE COLEMAN: Well you would have to say that so far as you know there is no such district, or if there is one you have never found it out.

BY THE WITNESS: I would agree to that.

BY JUDGE RUSSELL: Isn't it a matter of fact that they are pretty well distributed throughout Harrison County?

BY THE WITNESS: To some extent they are, yes. That is part of the problem.

BY JUDGE RUSSELL: Where is that concentration, I live down there and I'm just trying to figure out—

BY THE WITNESS: (Interrupting) Well, I don't know enough really to want to respond to that question.

[132] BY JUDGE COLEMAN: Well why did you, you're testifying here and trying to help the Court and I think you've been a very candid witness; frankly, why



did you say to us that Harrison County was one of those counties in which an election at large would discriminate against the black people, I don't quite get with you.

BY THE WITNESS: I think in part it goes back to what, to the question that you asked me before, what difference does it make if the percentage is that close, and I said in terms of predicting the outcome of an election it's not predictable. But I think as a political scientist what we are getting at here is the question of effective representation and the possibilities that blacks can get together as a cohesive group to try to leave an impact upon an election outcome, and if they are dispersed by the drawing of district lines or if they are equally dispersed by virtue of the fact that they get to cast a ballot for several candidates, more than one candidate, I think it is easy to demonstrate and I think I have done so, for example with respect to Hinds County, with respect to the City of Jackson in particular, that they have been denied effective representation, they can have no impact on the outcome [133] period.

BY JUDGE COLEMAN: We're going to have to come to that a little later on, I guess it's about time we all adjourned for lunch, but it has been traditionally true down through the years, even before the Voting Rights Act of 1965, that the black people of Harrison County voted any time they got ready and in substantial numbers, didn't they?

BY THE WITNESS: Well, I think that you can demonstrate the blacks, for example, I hope I am answering your question. I think for example my own study in Jackson demonstrates that blacks voted in very substantial numbers in the election of 1971 and left zero impact on that income and could not have had an impact on that outcome.

BY JUDGE COLEMAN: That depends on how they chose to vote, wouldn't it? Let's get back to Harrison County and then we will come to the others. Have you made any studies or have you done anything to ascertain the facts as to whether or not down through the years such numbers of black people as they had in Harrison

County always voted anytime they pleased without any interference?

BY THE WITNESS: [134] No, I have not studied—

BY JUDGE COLEMAN: You haven't looked into that?

BY THE WITNESS: No.

BY JUDGE COLEMAN: What is the white population of Harrison County, total and black population? Have you got it, Judge Russell?

BY THE WITNESS: Someone has it handier than I do.

BY JUDGE COLEMAN: Yeah, Judge Russell may have it, he's got a document here in front of him.

BY JUDGE RUSSELL: The total of Harrison County?

BY JUDGE COLEMAN: Yes.

BY JUDGE RUSSELL: I don't have the ratio of black to white.

BY JUDGE COLEMAN: Well that's what we need.

BY JUDGE RUSSELL: Be 134,582.

BY MR. PARKER: There are 22,000 black—

[135] BY JUDGE COLEMAN: You have 134,000 what, total?

BY JUDGE RUSSELL: 582.

BY JUDGE COLEMAN: 582. And the blacks are 22,—

BY MR. PARKER: (Interrupting) 743.

BY JUDGE COLEMAN: Okay. Gentlemen, we will recess until 20 minutes until 2:00 o'clock and give us all one hour for lunch.

(Court recessed at 12:40 p.m., until 1:40 a.m., for lunch, May 7, 1975.)

(1:50 p.m., May 7, 1975, Witness Dr. Gordon Henderson returned to the Stand)

BY JUDGE COLEMAN: All right, Mr. Parker. You may proceed.

BY MR. PARKER:

Q. Dr. Henderson, would you please state to the Court your conclusions with regard to analysis of the

alignment of majority black counties with majority white counties in the senatorial districts of Senate Bill 2976?

A. The first conclusion is that many other districting [136] arrangements could have been found besides the one that was found for these black majority districts that would not have left black majority counties submerged in clearly white majority districts. And, secondly, many of these alternative districts would have been more compact, that is to say in some cases where the existing senate plan has a district consisting of three counties alternatives existed which would have combined only two. Where the existing plan has a district with two seats alternatives existed which would have created a district that had only one seat. And then finally, in every case counties can be combined, other arrangements in other words are possible, to create black majority districts which have variances less than the variances included under the existing plan. And I think with particular respect to the Senate the most notable finding could not have been predicted ahead of time was it of the 16 alternatives that can be divided into, I'm sorry, of the 19 alternative districts that can be devised to district 16, all of these have variances that are less than that provided in the Senate's plan.

Q. And what is the racial composition of those 19 alternative possibilities?

A. Black, black majority.

[137] Q. Now have you analyzed the House plan to determine whether the House plan, or House Bill Number 29, Number 1290, has any effect on black voting strength?

A. Yes, I have.

Q. And would you state what conclusions you have drawn and then after you have stated your conclusions would you state the basis on which these conclusions were made?

A. I performed with respect to the districts of the House the same kind of analysis that I performed with respect to the districts in the Senate, and essentially the conclusions are the same, to-wit: that many of the districting arrangements might have been chosen, all of

which would have avoided submerging black majority districts into clearly white majority districts, many of these districts would be more compact, and combinations of counties into districts can be found alternatives which have lower variances than the Senate's plan and are also black majority.

Q. Now what House districts do you believe dilute black voting strength?

A. The list by number—

Q. Yes.

A. —is District 3, 9, 23, 24, 28, 30, and 37.

Q. Now if the norm for a house district is 18,171, can [138] you tell me whether or not Marshall County exceeds the norm?

A. You're talking about the House now, correct?

Q. The House side.

A. Yes, sir.

Q. Marshall County.

A. Right. With a total population of 24,027 it does.

Q. And what is the racial composition of Marshall County?

A. It's roughly 62 percent black, 14,891.

Q. And with what county is Marshall combined in House District 3?

A. DeSoto.

Q. And what is the racial composition of DeSoto?

A. It's a majority white.

Q. And how many whites does it have?

A. Approximately 23,200.

Q. What is the effect of combining Marshall County with a 62 percent black majority with DeSoto County which is a predominately white county with over 23,000 whites?

A. It produces a district that is approximately 46 percent black.

Q. Which means?

A. That it's a white majority district.

Q. And what is the effect on black voting strength in [139] Marshall County with this combination?

A. It dilutes it.



Q. And this House District 3 has how many seats and what is the variance?

A. Three seats and the variance is 9.90.

Q. Could Marshall County, a black majority county, have been combined with other counties to create a black majority district in population; if so, how many possible alternatives would there be?

A. There are a total number of 117 districts, all of which have a variance within the range of the House plan, and of these 117 possible districts 10 of them would be districts with a majority black population.

Q. Can you give us an example of that?

A. Marshall, Benton and Tate would prove to be a black majority district, 53.51 percent black, also with three seats and a variance of minus 8.13.

Q. Can you tell us with respect to House District 9 whether Panola County exceeds the norm for a House District?

A. Panola County with a total population of 26,829 does exceed the norm.

Q. And is Panola a black majority county as well?

A. Yes, it is.

Q. And in House District 9 with what county is Panola [140] combined?

A. With Yalobusha.

Q. What is the effect of combining Panola County with Yalobusha County?

A. It produces a white majority district.

Q. And what is the effect on black voting strength in Panola County of combining Panola with Yalobusha?

A. It dilutes it.

Q. And what is the variance?

A. With two seats the variance is 6.61.

Q. Are there alternative possibilities of combining Panola with other counties that would not put Panola in a white majority district but would in fact put Panola in a black majority district?

A. Panola as it happens is a rather good example. Panola County can be placed, combined with other counties, in a total of 174 different districts of which

52 would be districts with a majority of black population.

BY JUDGE COLEMAN: All right, sir. Now I want to break in at this point just because I'm somewhat confused by this line of testimony. I want to see if I can straighten it out. You say it could have been put in 174 different districts?

BY THE WITNESS: [141] That's correct, Your Honor.

BY JUDGE COLEMAN: All right, I want you to give us a list of the 174 districts that it could be put in, because obviously it doesn't join but about three or four other counties and I don't know how that can be parlayed into 174 different districts.

BY THE WITNESS: The second computer program that I spoke of this morning Your Honor, produces these two sets of print outs which run hundreds of pages, one is for the house and one is for the senate, and I can very easily xerox that portion of it dealing with Panola and all possible combinations with other counties up to a maximum of three others, and the possible combinations of counties up to a maximum of four in the case of a county like Panola will run hundreds of possibilities of which only if I may 174 of the several hundred possibilities are have a variance of less than that provided in the house plan.

BY JUDGE RUSSELL: But you haven't answered his question yet with only two or three counties adjoining how could you get that many?

BY THE WITNESS: Well, let me designate counties as A, B, C and D.

[142] BY JUDGE COLEMAN: No, we have got a case here dealing with real lives and with real counties, and they are on the map in an immovable location. We have got to deal with them as they are and what concerns me about all this is when you move one you have got to move every other county in the state to try to stay within the norm. You can't just move one of them in isolation. When you move Panola County say into 174 other possibilities, which I don't understand yet, but I hope I will when you finish, by the same token



then you have interfered with the arrangement of all the other districts in the state. If there are 174, you say there are 174 possibilities for a combination of Panola County then if you move it and you take 81 other counties and multiply that by 174 you have then committed approximately 13,000 disturbances, or at least you have, this business of dividing the state by computer on a pure mathematical basis ignoring every other facet that the lawmaker has to consider and is entitled to consider somewhat baffles me. We know that Panola County, for example, joins Tate on the south doesn't it, and it adjoins Lafayette on the west, Quitman on the east, and then I guess it adjoins Yalobusha on the south and Tallahatchie, so we know about you can only move it so far until [143] you are going to gobble up the 18,000 people that constitutes a norm, so I am totally at sea about how you come up with all of these say 174 variations and that's without breaking county lines isn't it?

BY THE WITNESS: Oh absolutely.

BY JUDGE COLEMAN: Well that's the reason I would just like to see what those 174 combinations would be.

BY MR. PARKER:

Q. Can you read them off?

BY JUDGE COLEMAN: I don't care if you read them out but if you would just find the place and hand it up to me on the bench I could look at it. I would be glad for you to read them out but it would just take a long time, just let me see what it looks like.

BY THE WITNESS: May I bring this up so that I can point it out to you?

BY JUDGE COLEMAN: Well, just point it out to the Clerk there and let him show me will be all right. If he cannot well then I will ask you to come up.

(Witness mumbling to Deputy Marshal and Court Reporter unable to understand the record.)

[144] BY JUDGE COLEMAN: I am beginning to understand now. You are talking about the possibilities

if you were to create district with as many as what, four seats?

BY THE WITNESS: That's correct.

BY JUDGE COLEMAN: That this county would be included in?

BY THE WITNESS: That's correct. In all cases I'm talking about combinations up to a maximum of four.

BY JUDGE COLEMAN: Yeah, well that's what I see now. In other words, you're talking about, say your first possibility here about Panola would be to combine it with Lafayette and give them three seats, or with Quitman give them two, or with Tallahatchie give them three, or with Tate give them two, or with Tunica two, Yalobusha with two and then you drop back to Lafayette and Quitman with four, Lafayette and Tallahatchie with four seats. That's somewhat at war with your idea that one seat is the ideal, isn't it?

BY THE WITNESS: Yes, we're back to talking about numbers again—

[145] BY JUDGE COLEMAN: Yes, yes, this is sort of a numbers game.

BY MR. PARKER:

Q. How many seats in House District Number 9 under House Bill 1290?

A. Two.

Q. How many alternative possibilities are there for combining Panola County with other counties that would result in black majority population districts?

A. 52.

Q. Can you give us an example?

A. Panola with Tunica.

Q. What would the racial composition and the variance be?

A. 57.82 percent black with two seats and a variance of 6.44.

Q. Okay, District 23, would you name the counties in District 23?

A. Presently Lowndes, Noxubee and Oktibbeha.

Q. Do any of those counties have a black majority population?

A. Noxubee.

Q. By what percentage?

A. 66 percent.

Q. And what is the racial composition of House District [146] 23?

A. It is white majority.

Q. And what percent black?

A. 38 percent black.

Q. What is the effect on black voting strength in Noxubee County of combining Noxubee with Lowndes and Oktibbeha?

A. It dilutes it.

Q. And how many beats are in that district?

A. Five.

Q. Are there any combinations—

BY JUDGE COLEMAN: May I ask you how does it dilute it, I would like to explore this a little, this county could not elect, it doesn't have enough population for one representative on its own?

BY THE WITNESS: Noxubee County—

BY JUDGE COLEMAN: Noxubee County just doesn't have enough people for one representative?

BY THE WITNESS: No, it has—

BY JUDGE COLEMAN: So it's got to be combined with somebody?

[147] BY THE WITNESS: Yes.

BY JUDGE COLEMAN: And it's on the Alabama line and that limits at least your opportunities to spread to the east. By diluting it, these people couldn't elect a representative on their own in any event so what do you really mean when you say that their vote is diluted when they happen to be combined with two other counties?

BY THE WITNESS: It dilutes it in two ways. First it dilutes it because there is the possibility of a combination which would produce a black majority district and to the extent that that has not been done that vote has been diluted.

BY JUDGE COLEMAN: How much dilution would take place say on your first alternative? How much dilution would that save?

BY THE WITNESS: I'm sorry, Your Honor, I don't think I understand.

BY JUDGE COLEMAN: Well that's a problem about taking the solely mathematic approach to this thing. What was your first alternative for this district for Noxubee County, where would you have placed it?

[148] BY THE WITNESS: It can be placed in Noxubee, Winston, Attala and Holmes.

BY JUDGE COLEMAN: Noxubee, Winston, Attala and Holmes. That would give you a district over a hundred miles, wouldn't it?

BY THE WITNESS: Yes, it would.

BY JUDGE COLEMAN: And it would wind up with how many representatives?

BY THE WITNESS: Four.

BY JUDGE COLEMAN: Four. And they would all be elected from that area? You would have to elect them district at large to maintain your ratio?

BY THE WITNESS: I don't see why, Your Honor—oh, I'm sorry, I think I understand. You're assuming that we're still not talking about breaking any county boundaries?

BY JUDGE COLEMAN: That's right. They would have to be elected at large?

BY THE WITNESS: [149] Yes.

BY JUDGE COLEMAN: So if some black citizen of Noxubee County wanted to run for the legislature for example in that district, instead of campaigning in the nearby counties of Oktibbeha and Lowndes he would have to go all the way through Winston which has a width of, I believe it's 36 miles, and all the way across Attala which has another 36, 72 miles, and then he would get into Holmes which reaches still another 36 miles over into the Delta around Tchula. So he would be campaigning over a territory a hundred miles wide, wouldn't he?



BY THE WITNESS: Unless of course he decided that he could gather enough support around his hometown—

BY JUDGE COLEMAN: Well he obviously couldn't do it in Noxubee County, could he, because they don't have the people.

BY THE WITNESS: He could not do it in Noxubee.

BY JUDGE COLEMAN: He would have to go to Winston, Attala and Holmes. Proceed.

BY MR. PARKER: Point out to the Court in Senate Bill 2976 there are [150] districts at least that large and possibly larger, more than a hundred miles long.

BY JUDGE COLEMAN: How many members, how many senatorial?

BY MR. PARKER: Two or three.

BY JUDGE COLEMAN: But you're dealing with a norm there of 40,000 where here we're talking about 18.

BY MR. PARKER: That's right. Single member districts would provide smaller districts for both the House and the Senate.

BY JUDGE COLEMAN: Well we can understand all that.

BY JUDGE RUSSELL: And if you took in Holmes in that District 23 you would be taking Holmes out of District 16 which is with Humphreys and you have the only black legislator from that county now, don't you?

BY MR. PARKER: Right.

Q. For House District 28, Dr. Henderson, what is the population of Madison County, is Madison County above or below the norm?

A. Madison County with 29,737 is above the norm. [151] Q. And what is the percentage of black in that county?

A. 62 percent.

Q. And Madison County is combined with what county in a floater district?

A. Rankin.

Q. I believe one is elected by Madison, two is elected by Rankin and one is elected at large, is that your recollection?

A. I think it is my recollection, yes.

Q. And that district for the at large seat, is that a black majority district or a white majority district?

A. As is now?

Q. Yes.

A. White.

Q. What is the effect of combining Madison, a black majority county with Rankin, what is the effect on black voting strength in Madison?

A. Once again, it dilutes it.

Q. Are there any alternatives combining Madison and Rankin that would not dilute the black voting strength?

A. It is possible to incorporate Madison County in 28 districts that are black majority.

Q. Could you give us an example of one?

A. Madison, Yazoo would be 58 percent black, it would [152] have three seats and the variance would be 4.63.

Q. Now let's take House District 30, what counties are included in House District 30?

A. At the moment, excuse me, Claiborne and Warren.

Q. And Claiborne is 74.57 percent black, is that right?

A. That's my figure.

Q. Okay. And is the district a white majority or a black majority district?

A. White.

Q. Isn't it common knowledge that Claiborne County has black elected officials at the county level in Claiborne County?

A. It's common knowledge to me.

Q. And this is a white district wide majority, is that right?

A. Yes, it is.

Q. And are there any alternatives to combining Claiborne with any other county that would provide a black majority district?

A. There are 12 such possibilities.

Q. Could you give us an example of one?

A. Claiborne and Jefferson would be 74.90 percent black, it would have one seat and the variance would be 6.65.

[153] Q. And how many seats is the House District 30 under House Bill 1290 combining Claiborne and Warren?

A. Three.

Q. Now according to the United States Census Warren has 18,355 black people. Is it your understanding that is above the norm for a House district?

BY JUDGE COLEMAN: I beg your pardon, what district is it you're talking about now.

BY MR. PARKER:

Q. Well, Warren County standing alone has a black majority, has a black population, it's a white majority county with a black population of 18,355. Now as I understand your testimony, Claiborne and Warren together, House District 30, is 46, 47 percent black or racial composition, is that correct?

A. That's correct.

Q. Which means that it is a white majority district?

A. That's correct.

Q. And voting is county wide?

A. Correct.

Q. Now what is the effect upon the voting strength of those 18,355 black people in Warren County when you have at large county wide voting in House District 30?

[154] A. In this instance it dilutes the voting strength of blacks whose numbers entitle them to representation by the equivalent of one district, because their number exceeds that of the norm.

Q. Now in Hinds County there are 84,—

BY JUDGE RUSSELL: While he's on Warren and Claiborne there let me ask this. In other words you have 10,086 population in Claiborne. Now how much of that is black in Claiborne?

BY MR. PARKER: 7,522.

BY JUDGE RUSSELL: All right, they have 7,000 up there as against Warren County, and you say it's 18,000 blacks in Warren County?

BY MR. PARKER: 18,355.

BY JUDGE RUSSELL: Yes, 18,355. So that would leave almost 25,000 whites. In adding them up I don't know what it is in percentages but it looks like it would be fairly well equal there, because you've got 7,000 plus in Claiborne of blacks and you've got about 6,000 plus in Warren of white.

BY MR. PARKER: [155]. The overall district, Your Honor, would be whites, 29,010, blacks, 25,877, and others, 180, for a total population of 55,067. The district would be 46.99 percent black.

BY JUDGE RUSSELL: 46 what?

BY MR. PARKER: .99. 47 percent black.

BY MR. RUSSELL: What's the difference in people there?

BY MR. PARKER: The difference in people is 4,867.

BY JUDGE RUSSELL: In favor of what?

BY MR. PARKER: In favor of whites.

BY JUDGE COLEMAN: Do you have something, Mr.?

BY MR. SUMMER: Yes, if the Court please, I would like to, maybe not make a specific objection, but in the manner and method to which this has gotten into, the gentleman just stated that a particular population entitled them as a matter of right to a black representative, and I wanted to clarify myself to the fact that we're not [156] dealing with that issue and for the record we are dealing with possible alternative plans rather than anybody's right to a seat in the legislature because of his color.

BY JUDGE COLEMAN: Well, I think that the—

BY MR. SUMMER: (Interrupting) He has just made a very—

BY JUDGE COLEMAN: (Continuing) the Court understands that. I think what he meant was theoretically if all blacks voted for blacks and all whites for whites that they would be entitled, that that would give them one on that basis—



BY MR. SUMMER: (Interrupting) Just like the Court—

BY JUDGE COLEMAN: (Continuing) I like his method of examining district by district because that's what we've got to look at when we're through, it may take a little time. If he misstates a conclusion of law, why he may not do more than we will later do when the Supreme Court gets through with it, but we understand your point.

BY MR. SUMMER: Thank you.

[157] BY JUDGE COLEMAN: Go ahead, Mr. Parker.

BY MR. PARKER:

Q. Now Hinds County has 84,064 black persons residing in Hinds County.

BY JUDGE COLEMAN: Is that a new district number?

BY MR. PARKER: Hinds County?

BY JUDGE COLEMAN: Hinds County, what district number is Hinds County? Okay, 31 is Hinds County.

BY MR. PARKER: District 31.

BY JUDGE COLEMAN: Okay.

BY MR. PARKER:

Q. House Bill 1290 provides for two by supervisors district, two at large. Hinds County is 61 percent black, sorry, 61 percent white. What is the effect of at large county wide voting on two at large seats. What effect does that have on this substantial black voting strength in Hinds County?

A. In my best judgment it serves once again to cancel out this voting strength.

[158] Q. Now Harrison County is 22,743 black people and that is more than the norm, is that correct?

A. It is.

Q. And Harrison County District 45 has one by supervisors district and two at large. What is the effect of at large county wide voting in Harrison County which has a white county wide population majority, what is the effect of county wide voting on the voting strength

of those 22,000 black people who live in Harrison County?

A. Once again the at large electoral system serves to cancel out this voting strength.

BY JUDGE RUSSELL: Well wouldn't it make a difference if they were concentrated in one area because if they're scattered throughout the county, as I know them to be, how does that dilute their vote because if you put it in any single member district how would that if they are fairly well equalized throughout the county, how would that dilute it by making it county large, it would actually give them the bargaining, the balance of power, and that's what they have. Just had a city election there and one black out of eight whites ran in the city of Gulfport, black came in third, but there was no concentration of votes there.

[159] BY THE WITNESS: Judge Russell, with all due respect I am afraid I disagree just about 98 percent. I'm afraid the point is that it doesn't give them bargaining power, that if they are districted, if they are concentrated, if it can be drawn in some fashion—

BY JUDGE RUSSELL: If they are not concentrated.

BY THE WITNESS: If they are not concentrated.

BY JUDGE RUSSELL: That's what I'm talking about.

BY THE WITNESS: Right. It is the at large principle that makes the difference. It is that they have more than one vote to cast and if blacks are going to group together and cast their vote, say for the black candidate that they agree on and they all vote for him, they still have to cast that second ballot and my studies of three elections in great detail in Hinds County which really is the county where they have census data that enables us to make this, I think absolutely conclusive demonstration, it indicates that that second ballot is wasted and served to elect a white candidate and because the ballot is expended in this fashion. In [160] Jackson what has happened is that the black candidate has invariably come in one or two positions behind where he could be elected, say to the City Commissioner. It's

the number of ballots and the need to cast a ballot and the wasting of the ballot that minimizes almost to nothing that bargaining power. It's the ability to build a coalition and exercise effective power that makes it exceedingly different to find racial discrimination in voting in many northern cities where indeed they are a balance of power and politicians know it. But people can look at the city of Jackson in '71, '72, and '73 and say they can be safely ignored. There's no way that they can elect James Meredith, there is the record.

BY JUDGE RUSSELL: Of course if you've got two black areas, say in the Board of Supervisors redistricting, you've got two predominately black areas, how do you say that they could not elect a black in those areas?

BY THE WITNESS: You mean in Hinds County under the decision?

BY JUDGE RUSSELL: Yes, sir.

BY THE WITNESS: There are two, as we have been using the words here [161] today, two majority, black majority districts under Judge Nixon's decision. And if that is a reality then in fact, because they are concentrated enough to make this difference, they will elect blacks.

BY JUDGE RUSSELL: Wouldn't they have a chance to elect four?

BY THE WITNESS: Four.

BY JUDGE RUSSELL: Four members of the legislature in those two districts if they are concentrated and run at large from that county, from the district?

BY THE WITNESS: But there are two running at large from the county.

BY JUDGE COLEMAN: Well, you have to, you've got two districts out of five in which you do have a black majority.

BY THE WITNESS: Correct.

BY JUDGE COLEMAN: Now then, what is the ratio of black to white in the county as a whole, what is it, 60 40?

BY THE WITNESS: Close enough.

BY JUDGE COLEMAN: [162] All right. Well you've got 40 percent of the districts here in which you've

got a black majority too, haven't you, in Hinds County?

BY THE WITNESS: No Answer.

BY JUDGE COLEMAN: You've got two out of five is what I'm saying.

BY THE WITNESS: Two out of five, yes, we do.

BY JUDGE COLEMAN: And of course you've got two at large which is going to be subject to the vote of the whole county. Do you think that the whole county, the entire county, should be deprived of representation as such and it should be broken up into a bunch of balking districts just to try to obtain some kind of racial majority?

BY THE WITNESS: In order to give effective representation, yes, I do.

BY JUDGE COLEMAN: You think so?

BY THE WITNESS: Yes, sir.

BY JUDGE COLEMAN: All right.

[163] BY MR. PARKER:

Q. Dr. Henderson, in your view, and you have studied those Hinds County Districts, in your view is it possible for black voters in any of the five districts as determined by the Board of Supervisors Redistricting Plan, is it possible and likely that black voters can elect legislators or county officials of their choice in any of those five districts?

A. My best guess at that this moment is that they cannot.

BY JUDGE COLEMAN: And for what reason since they are in the majority?

BY THE WITNESS: Because we have very carefully used the majority districts here today in the sense of total population figures regardless of age, and my calculations for Hinds County indicates that in one of those black majority districts in Hinds County the voting age population is approximately 46.2,—

BY MR. PARKER: (Interrupting) 46.2 what?

BY THE WITNESS: Percent, I'm sorry, and that's substantially below 50, and considering also the status of voter registration among blacks and the very substantially higher rate of registration among whites. I'm



not usually a [164] betting man, but I think I might make a few bets on that outcome.

BY JUDGE COLEMAN: Do you take the position that reapportionment has to be extended not only beyond equality of population but equality of those who choose to register and vote or those who are able to register and vote and we find we must go to voting strength to take care of this situation?

BY THE WITNESS: No, I don't, not at all. What I'm saying here is that from what political scientists, going back, extensive studies going back to 1944, believe is one of the best established of all principles is that people will vote when they believe their vote will count, and that low registration indicates that blacks can read the record of recent elections as well as any person and that is why registration is low; that in fact, if this Court made the possibility that their vote would count in reality that indeed registration would increase substantially as it did in 1971 when apparently blacks believed that they had a chance to have an impact on the outcome of an election, so I'm 100 percent in agreement that we ought not—

BY JUDGE COLEMAN: [165] Well since you are a political scientist of great study I see and so forth, I'm talking about 1971 as I recall it just in a general way, we had a black candidate for governor in Mississippi in '71, didn't we?

THE WITNESS: Yes.

JUDGE COLEMAN: And he lacked about 100,000 votes getting as many votes as there were black people voting, isn't that so?

THE WITNESS: No Answer.

JUDGE COLEMAN: According to all the reports and figures of the time? I'm talking about—

THE WITNESS: (Interrupting) No, it does not—

JUDGE COLEMAN: (Continuing) What I'm talking about is we take a premise as if it were the law of the medes and persians and then we try to build everything on that premise. But obviously according to the statistics, if you would look at them and I'm sure you have because I don't see how you could possibly have over-

[166] looked them, in the governor's race of 1971 there was just plenty of black people who did not vote for the black candidate for governor. Have you looked at that?

BY THE WITNESS: I would not call it plenty, no, sir.

BY JUDGE COLEMAN: What would you call it?

BY THE WITNESS: I would say—

BY JUDGE COLEMAN: According to the records of black registration and black voting in Mississippi how many blacks were there in November who did not vote for the black candidate for governor?

BY THE WITNESS: I would have to look up my figures, but it was not a significant percentage.

BY JUDGE COLEMAN: It was as many as 100,000, wasn't it?

BY THE WITNESS: That's not my recollection at all, Judge Coleman.

BY JUDGE COLEMAN: Well I'll be glad for you to supplement the record on that.

BY THE WITNESS: [167] All right.

BY JUDGE COLEMAN: I'm just pointing out that these, if you, if anyone, I or anybody else, was allowed to establish the premise from which he reasons you can prove anything. But then of course what we have got to look at is the validity of the premise, and it's an amazing thing to me that although we are trying here to establish districts with black majority you say where it has been done it's nevertheless useless. This is a very, very bizarre thing. We're talking about how we ought to establish these black majority districts for the legislature, we've got to establish by Federal Court Order, and yet you say no black can be elected in either one of them. Now this makes me think I'm wasting my time and I ought to be home looking at television. What good is it going to do us to establish a black majority district if blacks can't be elected in them?

BY THE WITNESS: Would you like an answer?

BY JUDGE COLEMAN: Yes, sir, I would like to have your comment on it because this makes me feel like I'm in a labyrinth of some kind.

[168] BY THE WITNESS: I don't want to be a Polyana about this, but I think you can leave an imprint if, to concede that we're talking from premises, if I as a political scientist am correct in what I've said about the motivations of black or white and why they fail to register or do. For this Court to create some black districts so that blacks would see that indeed there were more a reality more than a token member of the legislature it should make a tremendous difference and then perhaps what I have said about the second district and fifth district under Judge Nixon's plan in Hinds I would have to retract four years from now.

BY MR. PARKER:

Q. What are the measure of black voting strength, Dr. Henderson, is pure raw population figures, are those the measures, proper measures of black voting strength?

A. No answer.

Q. What other statistics can we use to actually measure black voting strength?

A. I hope I understand the question. One can certainly look at voter registration as a measure of strength, one can certainly look at voting age, that is to say people 18 years and older, those are two clear [169] possibilities.

Q. Okay, are blacks in the voting age population majority or registered majority in any of the Hinds County Supervisory Districts under the Board's plan?

A. No.

Q. Now Lauderdale County, Dr. Henderson, is in District Number 24 under House Bill 1290. Lauderdale County according to census statistics has 20,630 black people. I understand that to be above the norm, is that correct?

A. That's correct.

Q. Now Lauderdale and Kemper combine together in a floater district and three representatives are elected district wide and must be residents of Lauderdale and one representative is a resident of Kemper and elected district wide. What is the effect on black voting strength, 20,630 black people in Lauderdale County, what is the

effect on them of district wide elections in House District Number 24?

A. Again as elsewhere at this time a district wide election serves to dilute that strength.

Q. On the basis of what you have found does the legislature's plan constitute an honest and good faith effort in your view to provide the maximum equality [170] of population among the districts?

A. I do not believe it does.

Q. Now have you written two memoranda reflecting and describing your analysis of the dilution of black voting strength in the House Plan and the Senate Plan?

A. I have.

Q. May I see, would you hand me please the memorandum on the Senate Plan, Senate Bill Number 2976.

BY MR. PARKER: Ask that it be admitted in evidence, Your Honor.

BY JUDGE COLEMAN: Let the other side see it if they have not seen it.

BY MR. PARKER: I'm sorry. This is simply a description of Dr. Henderson's analysis, Your Honor.

BY MR. SUMMER: Court please, we would object to it primarily on the fact that he has already just testified to it in open Court what his analysis was, and we see no need to supplement the record for it.

BY JUDGE COLEMAN: Well, we'll reserve ruling on it, hand it up and let the Court look at it and we will place it on you to call it to our attention before the evidence is closed and we'll see whether—

[171] BY MR. PARKER: I'm sorry, I didn't hear you.

BY JUDGE COLEMAN: I said we'll put it on you to remind us before the evidence is closed to rule on it, I'll reserve ruling now until we can see what's in it, I haven't seen it. The other Judges haven't. You may proceed.

BY MR. PARKER:

Q. The same with House Bill, your description with House Plan Number 1290. Would you hand that up to the Court, please, as well, Dr. Henderson.



BY JUDGE COLEMAN: This deals now with the Senate.

BY MR. PARKER: The first one is the Senate, the second one is the House Plan, Your Honor. This is Dr. Henderson's analysis of the effect of these two plans on black voting strength.

BY JUDGE COLEMAN: Ruling on that will be reserved as to its admissibility.

BY MR. PARKER: May we have them marked for identification?

BY JUDGE COLEMAN: Yes, you certainly can.

(Received and marked as Exhibit P-28 for identification.)

[172] (Received and marked as Exhibit P-29 for identification.)

BY MR. PARKER: And would the Clerk please give us the numbers of those exhibits so we can remind the Court?

BY DEPUTY CLERK: P-28 for the Senate and P-29 House.

BY JUDGE COLEMAN: P-28 Senate and P-29 House, ruling reserved.

BY MR. PARKER: Do you have an extra copy of the Senate Plan?

BY THE WITNESS: I have my own.

BY MR. PARKER: Are there marks on that at all?

BY JUDGE COLEMAN: Judge Cox just wants it for the purpose of looking at it is all, so he can see what's on it.

BY MR. PARKER:

Q. Now based on your analysis of the effect of these two plans, House Bill 1290 and Senate Bill 2976 on black voting strength in Mississippi, Dr. Henderson, can you tell us whether or not in your view these two pieces of legislation, House Bill 1290 and Senate Bill 2976, constitute a racial gerrymander?

A. In my best judgment they do.

[173] BY MR. PARKER: No further questions, Your Honor.

BY JUDGE COLEMAN: All right, you may cross-examine.

### CROSS-EXAMINATION

BY MR. ALLAIN:

Q. Dr. Henderson, I'll basically discuss some of the, of your political theories rather than the redistricting in which the Court has pretty well gone into. If I understand your testimony and from your deposition and your other testimony, you are saying that when you use purely population figures of black and white that that doesn't reflect the number of voters because one, the number of individuals that fall within the voting age category that the black percentage is lower than the whites, is that correct?

A. In many instances in Mississippi, yes.

Q. Would that be throughout the state?

A. Throughout the state.

Q. And then all those that fall into the voting age group you say that the percentage of blacks that actually register are lower than the percentage of the whites, is that correct?

A. Substantially lower.

Q. And then are the number of blacks who do register, the [174] percentage of blacks who actually exercise the right to vote is less percentage-wise than the whites, is that your testimony?

A. Yes.

Q. Then would you give us your estimate of what would be the necessary percentage of the population now I'm talking about, population of the blacks to the whites in order to call it, say a safe district, or a district in which you as a political scientist could say there was a probability of electing black candidates assuming the blacks did vote in the same pattern they are voting?

A. I would like to look at it on an individual county and/or city basis and depending upon that my estimate for the particular locality would probably fall somewhere between 54 and 65.

Q. Between 54 and 65.

A. 54 and 65. In my judgment it can be lower in urban areas than it can in rural areas. This is just projecting the future, if you will, on the basis of the record of the past.

Q. Now when you developed hundreds of plans in which you said that they could, the legislature could have combined a black county let's say with a white county and created a district in which the probability of a [175] black being elected, did you take these figures into consideration, 54 to 65?

A. No, I did not. In these plans for this hearing today I concerned myself solely with black majority counties. Even if that majority had only been, as it never was, but even if it had only been of one-half of one percent I would still have called that a black majority county.

Q. That would not have fit into your criterion that it must be between 54 and 65 percent of the population figures in order to be called a safe or a probability of a safe district for a black candidate?

A. That's correct, I was not trying to identify safe districts.

Q. Do you know how many districts in which you identified today that would fall into this particular category?

A. Unfortunately I do not. I must in all candor confess that I didn't do this analysis until bright and early Sunday morning and there are many things I wish I had done but I didn't, and that was one.

Q. And many of the plans which you say the legislature could have come up with in which they had joined blacks with whites population-wise would not necessarily be a district in which a black would have any chance anyway, under your theory?

A. By my definition of the probability, yes, sir, that's [176] correct.

Q. Do you know how many blacks were registered to vote on November 2, 1971?

A. No, I do not have that figure.

Q. Do you have any figures in regard to registration?

A. I have extensive figures with respect to Hinds County only.

Q. You have none for the state as a whole?

A. The only figures I ever have for registration for the state on the whole are not products of my own work.

Q. Do you have, where did you get these particular figures you're speaking of?

A. Testaments are made from time to time by the, principally by the Institute of Politics at Millsaps.

Q. What was the figure that they gave for the state as a whole, do you know?

A. I'm sorry, I don't remember.

Q. Sir, drawing upon your expertise as a political scientist, in November 2, 1971 Charles Evers, a black candidate for governor, got 172,762 votes statewide. Another black candidate, Freddy Washington running for Secretary of State, got only 100,816. Do you have any theory on why Charles Evers was able to get 72,000 votes more than another black running for statewide office?

[177] A. Yes, he was more visible and he was running for a higher office.

Q. You know there's 72,000 votes difference?

A. Yes.

Q. And that's the only reason you say that there's, that Charles Evers was more visible?

A. And he was running for a higher office.

Q. You don't consider the Secretary of State's office a high office, it's a state office, isn't it?

A. I said higher, comparative, a higher office.

Q. Can you tell us why then for the Superintendent of Public Education C. J. Duckworth, who was quite well identified throughout the State of Mississippi being head of the Teachers' Association, only got 128,732 in comparison to 172 for Charles Evers?

A. No Answer.

Q. Do you know why, do you have any idea why that that discrepancy—

A. (Interrupting) I can make another estimate again.



Q. Would that be—

A. (Interrupting) I can—I'm sorry.

Q. Go ahead.

A. I have a little difficulty accepting your description of him as well-known because he's the head of the Teachers' Association, but apart from that my answers [178] with respect to the same, somebody who is as visible and has not, it was not Medger Duckworth that was killed, it was Medger Evers, and the office that he was running for his brother was the office of governor and this is not something distinctive to Mississippi, the office of governor characteristically attracts more voters to it than lesser offices.

Q. Now you say you made quite a study of the voting in Hinds County in 1971?

A. Yes.

Q. Did you analyze the fact that Charles Evers just got 18,402 votes in Hinds County in '71, that Freddy Washington got only 13,453, and that Duckworth got 17,051, did you analyze the discrepancy between the votes there although all three were black candidates?

A. I didn't feel a need to analyze the discrepancy for the reason I think that I have given.

Q. Well on your theory that blacks voted for blacks and white people vote for whites, when a individual went to the polls and cast a vote for Charles Evers what would keep them from going just about one or two spaces down and also casting a vote for another black candidate?

A. My analysis and what I said here this afternoon began [179] with the premise which I said was the most, one of the most best established propositions for the voting behavior studies in this country, that people will vote when they believe or where they believe their vote will count. And the very fact that Charles Evers ran so far ahead of any other black candidate that year or since is an indication that blacks felt that in voting for him they could make an impact that they apparently didn't feel they could have in voting for Superintendent of Education or any other office.

Q. Now Doctor it wasn't a case of them having to get up and leaving their television set and going to vote, they were in a booth and they marked up there Charles Evers, it didn't take much effort to go right a little bit further down and mark for Freddy Washington and Duckworth, now how can you explain that on a science that regardless of where the man was going to win or lose that someone in a poll would not have cast that ballot for the other two individuals?

A. That is rational behavior for anyone who concentrates much of his effort as I do on voting studies. People regardless of the effort simply do not believe it makes a difference and it's perfectly rational not to even bother to go two spaces down to put an "X" by [180] Duckworth's name if you feel that basically it's not going to make a difference. That is perfectly rational.

Q. In other words you're saying these individuals you're talking about wouldn't make that little effort of dropping down one place and putting an "X"?

A. Well, you know you can take it the other way which is what I would do and say that certainly demonstrates how little they thought their vote would count that they wouldn't even make that little effort.

Q. Now sir you've talked about combining Madison County with other counties and you've talked about the fact that Madison County was predominately a black county, is that correct?

A. Yes.

Q. Did you study the statistics for the Secretary of State's office in 1971 where Freddy Washington, the black candidate, got 4,316 votes in Madison County and Heber Ladner got 5,538 votes and Charles Evers got 5,475 votes. In other words, the white candidate beat the black candidate in Madison County in 1971 although there were more blacks in that particular county, did you look into that?

A. I have used those figures in some analysis I've done, yes.

[181] Q. And what reason did you find that they did not vote for the black candidate in preference to the white candidate?

A. Well it is very difficult from census data to get at the kind of reasons that I am particularly interested in, but the reasons are those that I have been giving. People skip offices that they believe it doesn't pay to waste their time voting for.

Q. Is that the only reason you can give for the Madison County with a white candidate?

A. It is the general reason, obviously, that I'm going to give and it is of such crucial significance in voting behavior that I think it's adequate.

BY JUDGE COLEMAN: Well let's see now was there any skipping there, how many votes did Mr. Evers get in Madison County?

BY MR. ALLAIN: In Madison County Mr. Evers got 5,475.

BY JUDGE COLEMAN: All right, and how many did Mr. Ladner get?

BY MR. ALLAIN: Mr. Ladner got 5,538.

BY JUDGE COLEMAN: And Mr. Ladner got more votes for Secretary of State in a predominately black county than Mr. Evers got [182] running for the highly exposed office of governor?

BY MR. ALLAIN: That's right, Your Honor.

BY JUDGE COLEMAN: Now how do you explain that, Doctor?

BY THE WITNESS: Differentials in turnout.

BY JUDGE COLEMAN: No, they were all voting at the same time.

BY MR. ALLAIN: This election was held together.

BY JUDGE COLEMAN: The election was held on the same day at the same time same place at the same polls in November of 1971, I don't quite follow your logic there now.

BY THE WITNESS: May I ask—

BY JUDGE COLEMAN: Everybody went to the polls at once, Mr. Evers was a black candidate for governor, highly visible, well-known, got 5475 votes for governor. Mr. Ladner who has also been Secretary of State for about 20, I don't know, since 1948, got 5538 votes, and he was a white candidate with a black opponent, and the black opponent dropped back, how many did he get?

[183] BY MR. ALLAIN: The black opponent, Your Honor, got 4316.

BY JUDGE COLEMAN: 4316. So he was running 1100 votes behind Evers, 1200 votes behind Ladner, and I rather suspect that there is some grounds for believing that black people are like everybody else, they'll vote for who they please and they don't necessarily have to vote for a black man because he's got his name on the ticket.

BY THE WITNESS: Did you want me to—

BY JUDGE COLEMAN: I'm just making that comment. At least from the standpoint of this evidence I just wonder if you're not doing black people an injustice by saying that they just invariably vote for a black candidate whether they think he's a better candidate or not. Apparently 5538 people in Madison County in a predominately black county to the tune of 25 percent majority thought that Mr. Ladner was the better candidate for Secretary of State. They didn't skip anything, they voted, these are people who actually marked the ballot.

BY THE WITNESS: That is—

[184] BY JUDGE COLEMAN: I have grave doubts about a lot of this theorizing when it's put right down to the hard test of what people really do. I rather strongly suspected if I were to be a candidate for office, which I don't expect to be, that a lot of black people would vote for me and a lot of white people would vote against me, so that's what we come to with all of this theorizing.

BY MR. ALLAIN:

Q. Doctor, you spoke about identification a while ago, did you say Bolivar County was a predominately black county?

A. Did we talk about Bolivar at any point?

Q. Would you say it is now, right now? Bolivar and Sunflower Counties?

A. Bolivar and Sunflower are both black majority counties.

Q. Have you ever heard of Mrs. Fannie Lou Hamer?

A. Yes, I have.



Q. She's quite well-identified with the Civil Rights Movement, isn't she, both nationally and locally?

A. Yes, more so perhaps some years ago than now, but yes, I think you are essentially correct.

Q. Did you make any studies in regard to the fact that in 1971 when she ran against Senator Crook in Bolivar [185] County he got 6,302 votes, she got 4,843, and in Sunflower County he got 6,375 votes, she got only 2,925, did you make any analysis of that?

A. That was a state legislative race, correct?

Q. Right.

A. No, I did not look at the legislative races, not that one.

Q. Wouldn't that have been a pretty good race to look at since she was identified with the black movement and was an individual in that area that had carried the burden for so many years, she was known on the national scene, probably even more than Charles Evers probably.

A. It would have, I would of course have had to look at more data than merely the election returns.

Q. Let's get back to Hinds County again. Actually in 1971 one of the plaintiffs in this lawsuit, Mr. Kirksey, ran for the Senate, did he not?

A. In '71?

Q. Right.

A. I believe so.

Q. Do you remember what post he ran for?

A. No.

Q. If I was to tell you that he got, in running for Post Number 5 countywide, for the Senate he got 10,122 [186] votes, that running for Representative Post here in Hinds County Emma E. Sanders, a black, now this is the same, everybody would have been voting on the same ballot at that time, got 11,565 votes and Jack H. Young, Jr. running for Representative Post on the same ballot got 13,980 votes. Would you analyze why Mr. Kirksey who was a black and he's been identified with the redistricting suit here in Hinds County, I think he's a plaintiff in that, he is identified in this lawsuit, he's got an identification yet he ran 4,000 votes behind

Mr. Jack Young who is a black lawyer in Jackson. Did you make any analysis of that or why, the reason for it?

A. If I may make an estimate I would say that Jack Young I think has as well-known a name as Henry Kirksey any day, but I'm not offering that as the full explanation.

Q. The question was did you make any, you said you made detailed analysis of Hinds, did you make any analysis of this particular race?

A. No, I did not, not of that particular race.

Q. What races did you make an analysis of, just the governor's race?

A. The governor's race, the city commissioner's race of '73, and the presidential electors race of '72.

[187] Q. Sir, you commented earlier as to the Hinds County suit which is, Judge Nixon has already ruled on, and you said that it was your opinion that although two of the districts population-wise are predominately black, that it would be your opinion that they could not elect two black supervisors because of these other elements involved, is that your statement?

A. That was my opinion, yes.

Q. Then you said that if this Court was to create some areas in which the individual, the black individuals knew that they could elect a black candidate because of the population and this would give them, they would get out and no longer be apathetic and they would go and register and vote, is that correct?

A. I would say that what we know about voting studies would lead us to expect that that kind of development would begin.

Q. All right, sir. Now that Judge Nixon has so ruled and he has set up two, at least two districts were set up by the county themselves which were approved by the Federal Court, now that the blacks in Hinds County know this to be a fact will that not bring them out and bring them to the Circuit Clerk to register, they don't have to register but 30 days before August, so that between now and the first primary that there [188] will be a tremendous number of registered voters in those two districts

on the theory that now they know that the Court has approved it?

A. If in fact they believe that those are majority districts, yes, but that begins to get into a premise that I cannot under any circumstance accept.

Q. Well, sir,—

A. (Interrupting) I think the reality, you see much of this analysis goes back to one of the best known if indeed not the best known of all political scientists, the late V. O. Key, Jr., who taught at Harvard for many, many years, taught at Alabama and was out of Texas. And his statement was the people vote when and where they believe their vote will count, accompanied with a statement that voters are not fools, don't undersell them, their ability to perceive what the reality of the political situation is is never to be underestimated, and I am afraid that it is quite possible that in this case they will perceive accurately that their chances of electing black representatives and supervisors in Hinds County is not realistic and there will be no substantial change at all in voting registration.

BY JUDGE COLEMAN: Dr. Henderson, we know for a fact that they have elected [189] black officials in Claiborne County as you have pointed out, and that 66 $\frac{2}{3}$  percent of all the people of Claiborne County are black. Have you made any study or any analysis to see what percentage of the qualified black could be qualified electors of that county have registered? They know they have got a two to one margin and that there just isn't anything standing in their way toward total control of the, of that county's affairs at the ballot box, and under those circumstances I wonder what percentage of them have in fact registered according to your investigation?

BY THE WITNESS: Judge Coleman, I wish I could investigate that, but the records are so sketchy and incomplete. For example, when they filed the returns with the Secretary of State's Office they only report them for five precincts for the entire county. We try to relate this to—

BY JUDGE COLEMAN: There are only five precincts in Claiborne County.

BY THE WITNESS: Well I know, but it's very hard to relate this back to social characteristics.

BY JUDGE COLEMAN: [190] Well I'm not talking about social characteristics. I am asking you for a flat mathematical figure and that's what you have been talking about here all day and I think you have done a wonderful job, and certainly in some respects you have. Now if we know that there are 5,000 people, black people eligible to vote in Claiborne County that are over 18 years of age, that's all they've got to be now, they don't have to own property, they don't have to do anything but just register, we've got say 5,000 people, we ought to know how many of them are registered and therefore we ought to know something about this theory of yours that people only register to vote when they think it will count, nobody ever knows how it's going to count until after the votes are counted. I voted for many a person and got beat and I've been defeated myself when I used to be in that arena, that didn't keep me from making an effort, so you don't even know how many black people are registered in Claiborne County?

BY THE WITNESS: I have in my records at home an estimate, I'm afraid a very crude estimate. From Claiborne County, regrettably, as far as figures I have had some difficulty getting them. I can add that, I have already agreed [191] to supply additional data, I can add that to it if you would like, I will be happy to do so.

BY JUDGE COLEMAN: All right, sir.

BY MR. ALLAIN:

Q. Sir, you're telling the Court now that even though the Federal Court has approved a redistricting plan for Hinds County which shows at least two of the districts have a population majority of blacks, that this would not in any way get the blacks to come in and register in any number knowing now that they do have a chance to elect two supervisors?

A. That would be my judgment because my opinion is that they will know that they do not have a realistic chance to elect a supervisor.



Q. Well now sir how do they know about all these other nuances about the voting age and the fact that you, the statistics that you come up with show that whites out vote blacks, wouldn't they look at, the average citizen look at the population and say here in District Number 2 we have 22,984 people and the whites only have 20,000, would that not to the average citizen mean that we've got a chance to elect someone else, to the average citizen, let's talk in practicalities.

[192] A. I hope you don't think I'm ducking the question, but I think the average citizen would never be aware of the figures that you have just cited.

Q. Well what figures are they going to be aware of?

A. I don't think it is a matter of figures, I think it's a matter of Kirksey talking to people and other blacks talking to people and I think it's a network of information and communication around the country that is going to leave a distinct impression that the Court went against them once again, I think that is the kind of network of communication we are seeing when we do voting studies.

BY JUDGE COLEMAN: The way I understand your testimony then, it's a futile and a useless act for us to set up districts with black majority, and if that is not what you're testifying to I want you to explain it to the Court.

BY THE WITNESS: It is most definitely not my testimony, Your Honors.

BY JUDGE COLEMAN: All right, now why isn't that so, I mean here we are, here's a county that's in the capitol of the state, certainly I doubt that you could point to another county in Mississippi any more progressive generally than Hinds or in which the black people in [193] general have any more privileges or protection than any other county in the State of Mississippi, one in which they have voted much longer as a general rule than they have in the other counties of the state, and you say that a majority, black majority in Hinds County is futile how can you say it wouldn't be anywhere else?

BY THE WITNESS: Well,—

BY JUDGE COLEMAN: Well I'm not agreeing with you now but I'm trying to get it, I don't think it will be, but I'm trying to get it to your logic and to see just how much dependence we can put in the testimony you are giving here today. That's sort of, it seems to me kind of an Alice in Wonderland kind of a deal. I think that when people are in the majority if they don't exercise their majority it's their own fault in a free society unless you're going to pass a law to put people in jail for not going to the polls like the bill that apparently Representative Clark introduced. I'm not asking you these questions to agree with you, I don't agree with you, but I'm asking the questions to see just how much weight we can give to anything else you have said here. Of course when you're testifying [194] about pure mathematics that speaks for itself. But, this is a most unusual kind of an argument it seems to me and I want you to have an opportunity to tell us what you mean by it. You are a PhD and you're talking to three men up here on this bench none of whom are.

BY THE WITNESS: Well, there are two things I think I might say very simply. The first is that there are black majority districts and there are black majority districts and we have been talking today or at least I have, of black majority districts in terms of total population regardless of age as any district or any county that has a 50 plus percent black population. But I think if this Court were to create a district, accept a reapportionment plan that had a district with a black majority of say 60 percent, I think clearly that blacks would readily perceive that their vote was going to count even though their turnout rates were lower. And then secondly I think the crucial thing about Hinds County, indeed I hope you are correct, I hope I am dead wrong about that, but I in all honesty do not believe I am because when you have a district as I think it's number 2 in Hinds County that has only 46.2 percent, I think it is, black, that [195] is too far shy in a voting age population, too far shy of 50 to realistically expect that there are any blacks going to be elected from that district.

BY JUDGE COLEMAN: Well, now the Court wasn't under a duty to guarantee that anybody would be elected because he's black, he was just under a duty to see to it that a black was not put to an unfair disadvantage. Isn't that right?

BY THE WITNESS: That's right, and you see my study that we've been talking about for almost two hours before and after lunch indicates that there are many alternatives which the legislature might have chosen which would have had a smaller variance, been more compact, and had a solid black majority.

BY JUDGE RUSSELL: Under stating that's true you said there would be a smaller variance but you're saying now that you've got to have at least 60 percent black to even be elected. Now how do you get around that?

BY THE WITNESS: I didn't say 60, I said 60 would be comfortable. My figure in answer to cross-examination was 54 to 65 was my best guess. But in addition to that I [196] said that any movement that can leave an impression that a reapportionment plan is attempting not to be unfair to blacks is going to make a difference because the message will communicate itself that blacks are going to be able to make a difference because their votes will count. And so some, let us say, followed black majority districts I think required and even in the sense of Hinds County Districts 2 and 5 perhaps that would help although it would not be a realistic expectation that it's going to produce any black supervisors, and what's happened in Claiborne County I think unquestionably has helped.

BY JUDGE RUSSELL: Well there was a real good laboratory to have done a lot of study in and yet you don't even know what percentage of those people are registered to vote.

BY THE WITNESS: No, I don't. As I say, it's hard to get figures that I can come in a place like this and say I'm really quite sure that these are accurate. In some counties that is possible.

BY JUDGE COLEMAN: Go ahead.

BY MR. ALLAIN:

Q. Dr. Henderson, since you had found in your theory that [197] the only reason that black candidates statewide did not obtain as many votes as Charles Evers is on identification. Would it have been good to go up in Sunflower and Bolivar and analyze why people with an identification were not able to win?

A. The simple answer is that it is a matter of time. I have done a little bit of that, I have not done nearly as much as I would have liked to.

Q. Is Coahoma County black—

A. (Interrupting) Yes.

Q. (Continuing) predominately black. And in 1971 Dr. Henry Aaron, Aaron Henry ran up there, he's identified nationwide and he got beat by a white candidate.

A. Yes.

Q. Did you check into that?

A. I looked into that race as far as I could and that is a function largely of turnout, of lower rates of turnout.

Q. Lower rates of turnout for the blacks or whites?

A. Blacks.

Q. Well, didn't the blacks at that time realize if they had turned out they would have had the majority and could have elected him?

A. I think they probably did.

Q. Didn't he put on a pretty good campaign to get the vote [198] out?

A. I was not here that year, I do not know firsthand.

Q. In your investigation you didn't check to see what kind of drive he put on to see what caused the apathy of the black voter?

A. No, I didn't. I didn't feel that I needed to. I did not want to get into that much detail, I didn't feel it was at all necessary.

BY JUDGE COLEMAN: How long have you been in Mississippi, Doctor?

BY THE WITNESS: I have been in and out of Mississippi—



BY JUDGE COLEMAN: I mean how long have you been here on a permanent basis where you could look around you and see what was going on from day to day?

BY THE WITNESS: I have owned a house, the house that I said I lived in this morning and lived in it beginning in 1962 and then was gone from 1966 to 1972.

BY JUDGE COLEMAN: So you have been here now continuously only since 1972?

BY THE WITNESS: Right.

[199] BY JUDGE COLEMAN: You have not been in the State of Mississippi during any statewide election for legislators or other state officers, you were not here—

BY THE WITNESS: (Interrupting) Since 1972, right, correct, I was not here for the '71 election.

BY JUDGE COLEMAN: All right, sir. Were you here during any other statewide election as a resident of the state?

BY THE WITNESS: Yes, I was.

BY JUDGE COLEMAN: What year was that?

BY THE WITNESS: Well, for the summer. I was here during June, July and August both in 1959 and '63, and of course I was living here permanently in '63.

BY JUDGE COLEMAN: Have you voted in Mississippi?

BY THE WITNESS: Yes.

BY JUDGE COLEMAN: What years?

BY THE WITNESS: [200] '72, '73 and '74.

BY JUDGE COLEMAN: Yeah, but I'm talking about in a statewide race for legislators and governors, they're all elected at the same time—

BY THE WITNESS: (Interrupting) No.

BY JUDGE COLEMAN: You have never voted in one of those elections?

BY THE WITNESS: No, I haven't.

BY JUDGE COLEMAN: You expect to do so this year I am sure? You are a registered voter?

BY THE WITNESS: I am a registered voter.

BY MR. ALLAIN:

Q. Doctor, in the Kirksey case the Court found that in District 2 there are 53.4 percent non-white, 46.6 white,

and in District 5 46.0 white and 54 percent non-white. Now this 54 percent of non-white is reaching pretty close to the figure you gave me of between 54 and 65 percent, isn't it?

A. Yes, it is.

Q. In fact it touches it, gets right up there with it? [201] A. Yes.

Q. Then would you want to correct your testimony somewhat and say since that is 54 percent non-white in District 5 and leads those individuals in District 5 knowing now that they do have a chance to elect a supervisor would get registered, would vote, would get behind a black candidate whether it be for the legislature or for a supervisor?

A. I apologize profoundly. What district are you talking about?

Q. District 5 says 46 to 54, 54 percent non-white.

BY JUDGE COLEMAN: District 5 Hinds County.

BY MR. ALLAIN: Hinds County. That was according to the Kirksey case the Hinds County redistricting case in which you have testified.

BY THE WITNESS: It's 54 percent non-white in District 5.

BY MR. ALLAIN: 46 white.

BY THE WITNESS: I have the same reaction to that once again that I had before which is that it is essentially that in District 5 as in 2 in order to have any good feel for [202] what is going to happen in an election to know what the voting age population is, not the total population. But by my earlier definition I would say clearly District 5 offers a much better likelihood than 2 of the possibility of electing a black supervisor.

BY MR. ALLAIN:

Q. Well let's don't talk about comparison of those two. Now let me compare what you told me earlier when you said in any plan district wide they would need at least between 54 and 65 percent black population and in those districts they would feel that they should partici-

pate and that's 54 percent, do you want to up that percent now?

A. No, I don't. I'm essentially agreeing with what you begin to say.

Q. Well, you've got 54 percent in District 5.

A. That's right.

Q. Would that hold true that in all likelihood the blacks in District 5 in regard to supervisors and representatives under the present legislative plan knowing now that they could elect two representatives and one supervisor that they would get out and vote, register?

A. At least get out and register, yes, that holds.

Q. I may have asked you this question earlier, but can you give me a ball park figure of how many of the plans [203] you discussed here earlier in which those combined counties would produce between 54 and 65 percent black population?

A. I honestly can't. I could work it up for you but I don't have it.

Q. Now you said over in Warren County they had 18,300 some odd individuals and therefore they would be entitled to a representative, is that correct?

A. Yes.

Q. Do you know whether all these blacks are in the same area of Warren County?

A. No, I don't.

Q. Well how would you put them in one District?

A. No Answer.

Q. How would you—

A. (Interrupting) I don't believe—

Q. (Continuing) How would you turn that 18,000 into a compact district for a representative in Warren County?

A. It's very important I think for me to reaffirm what I've said, which was that I was indicating the criticisms of the plan and professional opposition in multi-member districts and had made no effort to bring in any plan as I said early this morning delineating where District lines should be drawn within a [204] multi-member district. My only testimony on that point

has been that a multi-member district dilutes that voting strength.

Q. Well sir how could you use in criticism of a plan that Warren County has got 18,000 plus blacks and therefore they ought to have a representative and then say to us you don't know whether they're all in the same area. Isn't that an unfair criticism of the plan? The same way in Harrison County, isn't that unfair?

A. I hope it isn't, it doesn't appear to me to be unfair.

Q. One last question, Dr. Henderson. Do you know of any occasion on your own knowledge in which any blacks in Mississippi have been denied the access to the political process?

A. Since when?

Q. At any time.

A. At any time?

Q. Say within the last five years.

A. Of my own personal knowledge not within the last five years.

Q. Do you know of any blacks that have had difficulty in registering to vote within the last five years?

A. Of my own personal knowledge being right there on the premises, no.

[205] Q. In choosing the political party they desired to support, only your own personal knowledge?

A. Well I have students who would like to vote for political parties who are not on the ballot, yes, of my own personal knowledge—

Q. (Interrupting) Have they been denied because of race?

A. Oh.

Q. Let's talk about race, I think that's mainly what your testimony—

A. (Interrupting) Yes, sir, certainly much of it is.

Q. Do you know—

A. (Interrupting) I don't know, I don't know.

Q. In qualifying as a candidate for a desired party, I mean a desired office, based on race now do you know of any?

A. No.



Q. In participating in the candidates election process based on race do you know any?

A. No.

Q. In participating meaningfully in any other portion of the political process based on race?

A. In participating meaningfully in any part of the political process?

Q. In any other portion of the political process other than those that I've delineated there.

[206] A. Because of race?

Q. Because of race.

A. Let me say probably not.

BY MR. ALLAIN: No further questions.

#### REDIRECT EXAMINATION

BY MR. PARKER:

Q. Did I understand you to testify, Dr. Henderson, that it was your view that blacks have an opportunity to elect officials of their choice in District 5 of Hinds County under the Board of Supervisors Redistricting Plan?

A. That was not my testimony.

Q. Are blacks, according to your study and analysis of census statistics, in the voting age majority in that district?

A. Definitely not.

Q. They are in the voting age minority?

A. That is correct.

Q. Now if as a result of the Court decreeing single member redistricting plans a single member plan resulted in legislative districts which were black majority in voting age population substantially. What effect would this have on black registration in Mississippi according to your view?

[207] A. It should encourage it substantially.

Q. And what effect in your view does the present plan of multi-member districts where black majority counties are combined with white majority counties, what

effect does this have on black registration and black voting for legislative positions?

A. It tends to minimize it.

Q. On the voting statistics that were cited by Mr. Allain in his cross-examination of you did any of those statistics indicate how many black voters had actually voted in any of those counties or in any of those elections?

A. None.

Q. Is it possible to determine exactly how many blacks voted for Charles Evers or voted for Freddy Washington or voted for Mr. C. J. Duckworth as a percentage of the number of votes that they actually received or the number of votes that they received as a percentage of the number of black voters, if the statistics omit any relevant information on how many blacks actually voted?

A. It's completely impossible, it should not be attempted.

BY MR. PARKER: No further questions, Your Honor.

[208] BY JUDGE COLEMAN: Now for the benefit of the entire Court, Dr. Henderson, I want to ask you what percentage of the black people of Mississippi between 18 years of age and upward are now registered to vote?

BY THE WITNESS: For the state?

BY JUDGE COLEMAN: Statewide.

BY THE WITNESS: I have an even less reliable figure for the state even than for Claiborne County, I do not know. The figures that I get from the Institute of Politics, for example, I have even at that point some serious quarrels. It's all a matter of estimating.

BY JUDGE COLEMAN: So we are sort of just scuffling around in dark about this, aren't we, we don't know?

BY THE WITNESS: About accurate registration figures?

BY JUDGE COLEMAN: Well we just don't know what percentage of the black people in Mississippi are registered right now.

BY THE WITNESS: Oh, in some places you do.  
[209] BY JUDGE COLEMAN: I'm talking about in the state—

BY THE WITNESS: (Interrupting) In the state—

BY JUDGE COLEMAN: (Continuing) as a whole, because we're talking here about state legislature, we're not talking about just one seat in the legislature, we're discussing the whole legislative setup. And I just want to know what the figures are statewide if you have them, but you've already told me you don't have them.

BY THE WITNESS: No, I think they're hard to come by at a moment in time. If all of us would get together and make a concerted effort to say two days before election this year perhaps we could get some reliable figures for a change.

BY JUDGE COLEMAN: Well, do people register by race now in Mississippi?

BY THE WITNESS: No, that makes part of it hard but you can trace down addresses.

BY JUDGE COLEMAN: It was knocked out by court order or just by change in statute or how, at one time they did register by [210] race.

BY THE WITNESS: Yes. And there is, you know, other suggestions from time to time that in fact racial figures—

BY JUDGE COLEMAN: I suppose at one time it was thought that it was an imposition on somebody to state his race and maybe they knocked it out on that account, I don't know. I had another thing or two here that I wanted to mention.

BY JUDGE RUSSELL: Could I ask a question?

BY JUDGE COLEMAN: Yes, Judge Russell wants to ask you a question while I'm looking in my notes.

BY JUDGE RUSSELL: On the question of the voting age and the registration, how is any Court, of course you say that you do not know the number of blacks that are registered or the percentage of blacks in any county, maybe you know one or two counties here that you have testified, how would this Court, if you placed it, which I don't believe the law requires, on the

voting age and registration reflex or a minority group, how would this Court ever have any knowledge in preparing any [211] or the legislature either, of any plan that would take care of a majority, a clear majority, say to 55 to 60 percent of those within voting age and those who registered, how would this Court go about coming about another plan based upon your theory?

BY THE WITNESS: The only place that you could do it, Judge Russell, is where census data are available as for example they are in Hinds block by block for the entire city precisely the number of people by race and by age, that's not true, it's also true of Biloxi, it's true of Meridian, perhaps one or two other urban areas. That's the only place you could do it with any competence.

BY JUDGE RUSSELL: Like Judge Coleman said, we've got to look at the state as a whole in this and we've got a lot of people waiting on a plan so that they'll know whether to run or not.

BY THE WITNESS: Well, you cannot do it I mean by what I've said because the census data is available, you cannot do it with absolute confidence, you can make some estimate on what census data is available but they are going to be estimates except for those instances that I have [212] cited.

BY JUDGE COLEMAN: Now Dr. Henderson, you were not asked on cross-examination but you testified on direct that this present apportionment of the Mississippi Legislature amounted to a racial gerrymander. Now first I would like for you to tell me what you mean by the term racial gerrymander.

BY THE WITNESS: It is a plan of apportionment which is so drawn in the context of a situation in which many, many other alternatives exist that ends up seriously under representing a significant racial portion of the population, and that is I think what I testified to here today, that whatever the intentions of whoever drew up the plan, the results excludes so many options of districts with lower variances, more compact, better representation for blacks, that the existing plan by comparison looks like a gerrymander.



BY JUDGE COLEMAN: I always thought that a gerrymander was something that was deliberately done with the purpose of attaining a desired result. Now of course I know discrimination can result from effect only without prior intent, but a gerrymander, you know who started it, [213] Brother Everest Gerry, and it's come down through the years and it's been used to accomplish a desired political result not always of a racial character. When you speak of a racial gerrymander in the context of our case do you mean a deliberate gerrymander or a resultive gerrymander?

BY THE WITNESS: I think increasingly in the professional literature, Judge Coleman, that a gerrymander does not have to be deliberate, it can be resultive, that's getting to be—

BY JUDGE COLEMAN: Is that the kind you're talking about in this case?

BY THE WITNESS: Yes.

BY JUDGE COLEMAN: Now then next I was somewhat surprised to hear you say without more elaboration that in your opinion this legislation did not represent an honest good faith effort on the part of the legislature to reapportion the state according to the one man one vote rule. Did you read the committee reports on this?

BY THE WITNESS: Yes, I did.

BY JUDGE COLEMAN: [214] You read them.

BY THE WITNESS: They were part of the submissions in the case.

BY JUDGE COLEMAN: You have read them?

THE WITNESS: Yes, I have.

BY JUDGE COLEMAN: And I suppose you've kept up in the newspapers with the general reports of what was going on in the legislature about this very vexing problem?

BY THE WITNESS: I think I have, yes.

BY JUDGE COLEMAN: Now why do you say the legislature was either dishonest or lacking in good faith in the enactment of this legislation?

BY THE WITNESS: Well I would not characterize them as dishonest, I would characterize them as lacking in good faith because they did not put forth what strikes

me as a rather obvious effort to discover what the alternatives were. One of the committee reports, for example, mentions the proposal offered by Mayor Evers, one of the committee reports has some comments on the [215] Valinsky plan. But beyond that point one of the unfortunate impressions that one gets, and maybe this is hearsay, I tend to think of it from my own personal definition of hearsay as hearsay, from the newspapers is that there were an awful lot of, I think expectedly, compromises going on and no legislator I'm sure wants to be out of a job if he can possibly not be out of a job and that's out of the opportunity to engage in public service for good of the state and its constituents and himself. But it simply comes back as a matter of numbers that the numbers at every turn are just too high, the variances are too high. Even compared with the plans, the maps of which you were presented this morning of my little machine exercises and that's all they were, there is not enough compactness, and again we're talking if you would like then, resulting bad faith or resulting lack of adequate effort, perhaps that's a better way to put it.

BY JUDGE COLEMAN: Well now let's see if I can nail it down. I think the Supreme Court, and I know this Court would look with a great deal of skepticism upon lack of honesty or upon lack of good faith. By the same token you can hardly level a more serious charge against a public [216] body than to say that it operated with a lack of sufficient honesty or in the absence of good faith. No legislator is here I suppose to testify about that part of it, but do you say, you don't say there's anything actively dishonest about this?

BY THE WITNESS: I never mentioned the word honesty or dishonesty.

BY JUDGE COLEMAN: I thought you said that they lacked honesty and good faith.

BY THE WITNESS: I didn't hear that as part of the question and I just said a minute ago that I'm not—

BY JUDGE COLEMAN: All right.

BY THE WITNESS: (Continuing) suggesting dishonesty at all.

BY JUDGE COLEMAN: Anyway then if I understand you correctly honesty is out of it?

BY THE WITNESS: Absolutely.

BY JUDGE COLEMAN: So we come back to good faith. Are you talking about good faith with reference to motive and purpose or [217] good faith as just judged by results?

BY THE WITNESS: By results.

BY JUDGE COLEMAN: I think its' very important that we clear this up, it was not gone into by anybody else in any detail at all and I must be frank and say I thought from the beginning that's what you meant by it but you didn't say so, so I thought I would give you an opportunity, you know, to do it.

BY THE WITNESS: Thank you.

BY JUDGE COLEMAN: I believe that's all from the Court. Thank you very much, Dr. Henderson.

[Exhibits Omitted]

\* \* \*

RIMS BARBER

\* \* \*

[217] BY MR. PARKER: The plaintiffs call Mr. Rims Barber.

BY JUDGE COLEMAN: Let's take a recess for about 10 minutes.

(Court recessed at 3:35 p.m., for 10 minutes.)

BY JUDGE COLEMAN: [218] Before the recess the plaintiffs had offered and had marked for identification their exhibits 28 and 29. The Court has examined these exhibits, offered exhibits, and we feel that these amount to a resume of evidence already in the record and it's probably improper for us to admit them because it accentuates some of the evidence at the expense of other portions of the evidence, all of which has been heard and ought to be weighed together. So if you get right down to the point on the thing we would consider that it's not properly admissible but you've already got it marked for identification so it's in the record and

if we make an error in that regard, why it no doubt will be reviewed but we think that where you have the evidence anyway that it's not correct to then have resumes of it introduced by way of accentuation and emphasis. We will take it all in total the record as a whole, and the Clerk already has the exhibits that have been properly marked for identification. You may proceed, Mr. Parker.

RIMS BARBER,

called as a witness for and on behalf of the Plaintiffs was sworn and testified as follows:

BY JUDGE COLEMAN: We will now at the outset, to save as much time as [219] possible in any discussion back and forth between the bench and lawyers in the case, does this gentleman already have a deposition in the record?

BY MR. PARKER: That's correct; Your Honor.

BY JUDGE COLEMAN: Do you propose to examine him about matters not covered in the deposition?

BY MR. PARKER: I do, Your Honor.

BY JUDGE COLEMAN: You may proceed.

#### DIRECT EXAMINATION

BY MR. PARKER:

Q. Mr. Barber, would you state your name and address, please?

A. Rims Barber, 166 Riverpark Drive.

Q. What is your current—

BY JUDGE COLEMAN: I didn't get your first name, please, sir.

BY THE WITNESS: R i m s.

BY MR. PARKER: B a r b e r.

BY THE WITNESS: [220] B a r b e r.

BY MR. PARKER:

Q. What is your current position, please, Mr. Barber?

A. Associate Director of the Delta Ministry.

Q. Would you tell us what the Delta Ministry is?



A. The Delta Ministry was begun in 1964 to assist persons and groups of people who are oppressed by poverty or by discrimination in the State of Mississippi.

Q. What is your, are you an ordained minister?

A. Yes.

Q. What is your educational background, please?

A. I have a Degree, a B.A. with honors in political science, I have a year of graduate work in political science and I have a Master's Level Degree in Divinity.

Q. What has been your experience, practical experience and practical knowledge in analysis of Mississippi politics?

A. I have spent a considerable portion of my time doing analyses of elections, voter behavior, primarily for the purpose of developing educational materials and workshop series for people who had previously been excluded from the political process so that they could learn more about it, how they functioned within it, so that they could better and more fully participate in [221] the political process.

Q. What elections have you analyzed in Mississippi?

A. 1967 general election, 1971 general election, some analyses of two municipal elections, '69 and '73, '68 and '72 presidential elections.

Q. And how long have you lived in Mississippi?

A. 10 years.

Q. Have you worked in assisting and aiding in voter registration drives in assisting candidates for office as part of your work?

A. Yes, I have.

Q. And that has been since 1965?

A. Since 1964 I've assisted numerous, in numerous places and at different times people in those specific activities, yes.

Q. Have I asked you to do an analysis of the electoral probabilities for each of the legislative districts as established by House Bill 1290 and Senate Bill 2976?

A. You asked me to do a probability of bills in which there was a black candidate in 1971.

Q. But have I asked you to compute this based on the probability of black candidates winning any of these districts for 1975?

A. Yes.

[222] Q. And have you calculated for each of the current legislative districts described by 1290 and 2976 the optimum black vote for each of those districts?

A. Yes, I have.

Q. And would you describe to the Court, please, what you mean when you say optimum black vote, what formula or criteria are you using to calculate this?

BY MR. SUMMER: If the Court please, to which I would like to enter an objection at this time that this goes into the winning of political elections which I don't believe any Court any where at anytime has made a ruling that it is necessary to reapportion on the possibility or the necessity of reapportioning for a black to absolutely win an election. Now we have gone into the processes but now we are going into whether or not they have created it so that they can win, and all of this study apparently is the probability of winning which has absolutely no relation to any of the law that I'm familiar with nor the issue before this Court at this time.

BY JUDGE COLEMAN: Well we'll reserve a ruling and let's see what his answer is and then we will be better able to judge that.

[223] BY MR. PARKER:

Q. Would you define optimum black vote, Mr. Barber, and criteria that you have used to calculate it?

A. Yeah, I'm concerned about what was just said and I'm trying to get my head back together because I'm very much concerned with the probability of losing, and that, I think, is a discriminatory factor that exist and where we started in '67 was with a whole lot of black candidates feeling in their heart that they were going to win because they looked around their neighborhood and saw a lot of black people and said oh, I ought to run for office and I should win. They lost and they were heartbroken because they didn't understand the probability of loss, and that motivated, you know, trying

to get them to understand that and their communities to understand that and how they could build upon their experience motivated our studies. And I think that is relevant and we began by looking at a number of factors. First, voting age statistics which was the most relevant beginning point, then registration statistics, registration habits in a variety of ways, turnout effective, what I call effective vote, that is we have looked at elections to see how many people who showed up on election day in 1971, November, failed to vote for [224] governor for any candidate and there were 20,000 of those. And we have talked to people to try and figure out why, you know, that's just a sizable number of people who somehow got to the polls and never were able to cast a, you know, or for some reason did not cast a vote. Taking these factors into consideration we find that there is a differential primarily because of past discrimination, because of economic dependence, because of age and accessibility to transportation and because of illiteracy, ability to read—

BY MR. ALLAIN: (Interrupting) Object. Your Honor, he's not responsive to the question and what's on the deposition.

BY MR. PARKER: He's explaining his formula, Your Honor.

BY JUDGE COLEMAN: I'm going to let him explain his formula, I don't know—

BY THE WITNESS: (Interrupting) We therefore come up—

BY JUDGE COLEMAN: (Continuing) just where it's going to take us to right now.

BY THE WITNESS: [225] I'm sorry, sir.

BY JUDGE COLEMAN: Go right ahead.

BY THE WITNESS: You know, therefore came up with a formula which I think is the most conservative possible formula. The differential in registration between white registration and black registration in a study of several estimates of that registration totals vary from 10 to 17 percent, that is the black registration estimates vary from 65 percent to 70 percent—

BY MR. PARKER:

Q. (Interrupting) Of the voting—

A. (Continuing) of the voting age population in the state is registered. For whites the estimations vary from just under 80 percent to, I believe 83 percent.

BY JUDGE COLEMAN: Now you've lost me. Would you please restate that?

BY THE WITNESS: I'm sorry.

BY JUDGE COLEMAN: What were the estimates for the black—

BY THE WITNESS: (Interrupting) 65 to 70 percent of voting age eligible blacks that are registered.

[226] BY JUDGE COLEMAN: Now is that in the State of Mississippi?

BY THE WITNESS: In the state of Mississippi.

BY JUDGE COLEMAN: How does that compare with the percentage found in other states, I'd like to have some comparison if you have it between states that are under the Voting Rights Act and those that are not. It seems to be that 65 to 70 percent might be fairly high, but I don't know until you give me something to compare it with.

BY THE WITNESS: I don't know, sir.

BY JUDGE COLEMAN: You don't have any comparisons from other states?

BY THE WITNESS: No.

BY JUDGE COLEMAN: Anyway it's 65 to 70 percent for the blacks and as high as 80 percent for the whites?

BY THE WITNESS: As high as 83 percent for whites, perhaps as low as 77, 78 percent.

BY JUDGE RUSSELL: [227] How did you arrive at those figures?

BY THE WITNESS: I have looked at a number of studies that people have done and I have done some myself based on precinct data, taking precincts in counties from variety of areas and then extrapolating, also taking the Institute of Politics studies which are done by calling up the Registrar and saying how many have you got.

BY JUDGE COLEMAN: So you feel—



BY THE WITNESS: (Interrupting) And several other—

BY JUDGE COLEMAN: For whatever relevance that it may have you feel the Court would be safe in assuming that statewide, of course there's variations I suppose in all states—

BY THE WITNESS: That's right.

BY JUDGE COLEMAN: Mississippi has lots of variations from Tennessee to the Gulf in many things, from fertility of the soil on up and down, but statewide 65 to 70 percent of the black people of voting age are registered, and as high as 83 percent, from 77 percent to 83 percent of the white people are registered. Now then I want [228] you to go next, maybe your counsel was fixing to take you there, on what portion of those people vote?

BY THE WITNESS: Just before I get there—

BY JUDGE COLEMAN: All right.

BY THE WITNESS: In my attempting to make a formula I chose the smallest possible differential, it is at least a 10 percent differential between the black figure and the white figure. Okay?

BY JUDGE COLEMAN: All right.

BY THE WITNESS: And I at all times would choose the most conservative one so as not to be wrong for if I err on the other side. There are estimates, estimates for turnout have a greater variety from place to place than does registration or at least it appears that way, that turnout varies from, there were four counties that had in 1971 a very, very low turnout, Tunica, Quitman, Sunflower and Leflore. There are some studies, principally I would rely upon the Lester Salliman Study published in December of '73 showing the varieties of turnout as based upon economic de- [229] pendence and correlating it with plantation country tends to turn out not as well as a place where people own their own land, among blacks, and the same could be shown in other comparisons of that type. The turnouts range from 60 percent to 70 percent for black on an average statewide and from around 75 to 80 percent for whites in an election of the magnitude of the '71 gubernatorial election.

Those figures will hold only for highly publicized, hotly contested race. They will go up and down depending on the contesting of the race, turnout is perhaps the hardest one to pin down because it depends, you know,—

BY JUDGE COLEMAN: Just to be practical about it that was true even in the days before the black people ever regained the vote, wasn't it, even among white people. You can just show disparities, I've seen them experienced depending on how much interest there was in an election, how many offices were to be voted on, whether it was a, say a judicial race or a congressional race or maybe a special election.

BY THE WITNESS: The turnout, this recent congressional election, in the primary here in Hinds County you had exceedingly small turnout.

[230] BY JUDGE COLEMAN: Both black and white?

BY THE WITNESS: Both black and white, both republican and democrat, so the turnout is a harder one to predict.

BY JUDGE COLEMAN: Pretty ephemeral, isn't it?

BY THE WITNESS: Sir?

BY JUDGE COLEMAN: Pretty ephemeral, e p h e m e r a l?

BY THE WITNESS: Yes. But it's predictable in certain kinds of elections where there really is a hot fight going on and especially at the local level you can see a high turnout if something is really hotly contested. And a racial contest in a district or an area tends to bring out more people, both black and white, than would vote in a relatively uncontested kind of race.

BY MR. PARKER:

Q. What is the racial disparity then that you attribute to your turnout criterion?

A. I use a minimum of 10 percent differential. I use the minimum.

[231] Q. Okay, now how do you define your term effective votes?

A. Well we did, as I eluded before did some study to see how many people cast challenged ballots, went through the process of going through all the boxes in Hinds

County, for instance we computerized in counting the numbers and seeing how many votes turned out and how many were fewer, how many fewer people cast effective votes, had votes counted as turned up on election day and signed their name in, and we came up with an average, we did this in several places, with an average of 4 percent among blacks and 1 percent among whites failed to cast an effective vote. Therefore the effective vote or effective turnout is the figure that I can then arrive at in a minimal way projecting from voting age population.

Q. From this formula is it possible to derive what you call optimum percent of the black vote, that is a maximum in terms of black voting strength that can be effective under optimum conditions?

A. Yes.

Q. And can this also, the converse of that can be then for the whites?

A. Simply by subtracting one number from a hundred gives you the other number.

Q. Now using your formula is it possible to calculate [232] whether or not black voters can elect legislators of their choice in any of the present legislative districts as determined by House Bill 1290 and Senate Bill 2976?

A. Yes.

Q. Would you describe the process by which this calculation can be performed?

A. For applying the process that I talked about, I applied it to legislative district after legislative district, I find that there are, that District 16 in the House, Holmes and Humphreys is the only district, as they are now constituted that comes up with an effective vote percentage more than 50 percent black and conversely less than 50 percent white.

Q. Now what voting age population statistics did you rely upon in reaching this conclusion?

A. Ellen Bryant's book has the voting age population by the 1970 census in most usable form. I used that for the '70 census, she also has the voting age population projection for 1975 and it now is 1975 so I used those in arriving at this conclusion.

Q. Let me hand you a document which has been marked Exhibit 4 and ask if you can identify that and tell us what it is?

A. Yes, it is a document which was in my deposition.

[233] Q. And what calculations are these, are these your calculations?

A. These are my calculations.

Q. Hand this up to the court. And what do they reflect?

A. They reflect 1975 voting age population, the percent black for the districts enumerated and my calculation of the optimum percentage of the total vote for an election that will accrue to a black candidate or a black supported candidate.

Q. In other words a candidate supported by the black voters?

A. That's correct.

Q. Now in any legislative district for either the House or the Senate under House Bill 1290 and Senate Bill 2976 is it possible for black voters to elect legislators of their choice based on these calculations?

A. Only in District 16, Holmes and Humphreys.

BY JUDGE COLEMAN: That is based on the assumption that all of the black people would unanimously agree on who they want?

BY THE WITNESS: That's correct, I can speak to that because our studies were, you know, included that aspect.

BY MR. PARKER: Ask that this document be admitted in evidence, Your [234] Honor.

BY JUDGE COLEMAN: It will be admitted.

(Received and marked in evidence as Exhibit P-30.)

BY MR. PARKER:

Q. Okay. Most of the districts, determined by House Bill 1290 and Senate Bill 2976, are white majority in population and you have heard Dr. Henderson's testimony that this results in part from combining black majority counties with whites majority counties?

A. Yes, that is correct.



Q. Is it probable that any legislator supported by the black voters can gain election in any districts which are white majority in population?

A. No.

Q. Now some of—

BY JUDGE COLEMAN: Are you expressing that as a fact or as an opinion?

BY THE WITNESS: Yes, probability.

BY JUDGE COLEMAN: In other words that's just your opinion?

BY THE WITNESS: No, a statistical probability is a fact that it is improbable that a black will be elected in a majority [235] white district. I did not say it was impossible, I said it was improbable.

BY JUDGE COLEMAN: From the statistics?

BY THE WITNESS: From the statistics, from an analysis of all the races that have gone on in the last 10 years since the Voting Rights Act, we have looked at all these races, there have been a half dozen exceptions in which people won for whom the probability was that they would lose, but that's out of several hundred who have run. Now there are some exceptions but the probability, the fact of probability is that they will lose.

BY JUDGE COLEMAN: How many black county officials do we have in office in Mississippi today?

BY THE WITNESS: There are 10 supervisors, there are numerous JP's and constables, that's the easiest office to get elected to, I believe,—

BY JUDGE COLEMAN: Well, they run in the same area that a supervisor runs in.

BY THE WITNESS: [236] Well, but—

BY JUDGE COLEMAN: I'm talking about so far as voting strength is concerned.

BY THE WITNESS: Oh, oh. As far as politically what happens on election day there is a much hotter contest for supervisor—

BY JUDGE COLEMAN: I don't believe we're here to adjudicate political questions—

BY THE WITNESS (Interrupting) I understand.

BY JUDGE COLEMAN: (Continuing) we are here to talk about constitutional issues. Anyway, to get the

statistics nailed down a little better you have ten supervisors now in the state who are in office who are black?

BY THE WITNESS: That's correct.

BY JUDGE COLEMAN: How many beats in the State of Mississippi today have a majority of black population?

BY THE WITNESS: If you will excuse me.

BY JUDGE COLEMAN: [237] Many more than 10?

BY THE WITNESS: It would be about, majority black population which is not what I consider to be the criteria.

BY JUDGE COLEMAN: I know, but that's what I'm asking you about. You have ten black supervisors in the State of Mississippi today, and I want to know how many supervisors districts have a predominately black population by way of comparison.

BY THE WITNESS: I can only give you an estimate figure on that because my document does not list, what I have in front of me does not list every black majority by population beat.

BY JUDGE COLEMAN: We know that we have 410 districts in Mississippi.

BY THE WITNESS: Yeah, 410 districts—

BY JUDGE COLEMAN: How many of them have, by estimate how many of them have a majority black population?

BY THE WITNESS: I would say probably 80 to 90 of them of which 40 of them have a voting age black population which is for electoral purposes what's needed to even begin [238] talking about winning. I could be much more accurate on the voting age population than on the general population.

BY MR. PARKER:

Q. Have any black supervisors ever won elections in a supervisors district that was majority white in population?

A. No.

Q. Have any black legislators, have any black candidates for the legislature in Mississippi since 1965 ever

won election to the legislature in a district that is white majority in population?

A. No.

Q. Now, there are also in House Bill 1290 and Senate Bill 2976 some legislative districts that are black majority in population. Have you done detailed calculations according to your optimum black vote formula as to whether black candidates have a reasonable likelihood or probability of success in those districts?

A. Yes.

Q. Would you hand the Clerk, do you have a copy of your calculations? Do you have an extra copy?

A. I have one and two extras.

Q. Would you hand one to counsel for the defendants to Mr. [239] Marshal, please. These calculations show, Mr. Barber, could you summarize your conclusions from these calculations?

A. These calculations show that each of these particular districts, and there are five of them that were looked at, while there is a substantial black population there is not a, there is a white majority effective vote probability so that blacks will in all probability lose in those elections, or elections in those districts.

Q. And this is calculated on the basis of the 1975 projections of voting age population?

A. Both from the '70 census and from the '75 projections.

Q. And in each case do you give the percentage of the effective vote that blacks are likely to have in each of these districts?

A. Yes.

Q. And whites as well expressed in percentages?

A. Expressed in percentages.

BY MR. PARKER: Ask that this be admitted in evidence, Your Honor.

BY JUDGE COLEMAN: That's supposed to have some bearing on the question of racial dilution, it will be admitted on that basis. I don't think it has anything to do with [240] reapportionment on one man one vote.

BY MR. SUMMER: Your Honor, I object on the grounds that the formula has never been validated, there

is nothing here other than his own word that he concocted a formula that we know nothing about, the Court knows nothing about, and laid it out into some figures that met their requirements.

BY JUDGE COLEMAN: Well, that goes to the weight of it all right, maybe not the admissibility, we'll admit it.

(Received and marked in evidence as Exhibit P-31.)

BY MR. PARKER:

Q. Were you present in the House of Representatives on March 14, 1975 when the Amendments to House Bill 1290 were debated on the floor of the House?

A. Yes, I was.

Q. And did you hear the debate and were you present during the entire debate?

A. Yes, I was.

Q. It has been admitted by the defendants in this case that Representative Charles Mitchell of Hinds County introduced floor amendment number 1 to House Bill 1290 in the 1975 regular session that would have provided single member districts, single member [241] legislative districts for the House in Hinds County. Do you recall the debate on Representative Mitchell's Amendment?

A. Yes, sir.

Q. Would you tell the Court, please, this afternoon what it was that Representative Howard Parkman, a member of the Hinds County Delegation, said about Representative Mitchell's Amendment?

BY MR. SUMMER: We object to that, if the Court please.

BY MR. PARKER: Part of the legislative history, Your Honor.

BY MR. SUMMER: Legislative debate on the floor.

BY JUDGE COLEMAN: Well, aren't those debates recorded?

BY MR. SUMMER: To my knowledge they are not recorded, no, sir.



BY JUDGE COLEMAN: I thought that they had taped all the discussion in the House.

BY MR. SUMMER: I have never heard of a legislative debate being recorded, I could be wrong, of course, in Congress I think they record it verbatim, but in the Mississippi [242] House I know of no such procedure.

BY JUDGE COLEMAN: They taped them in the Mississippi House when I was a member of the House but that's been a good while ago. The reason I raised the point is because if they are recorded that would be the best evidence of what was said rather than what somebody else remembers to have been said and then of course I don't know—

BY MR. SUMMER: (Interrupting) I would agree with the Court that that is true, of course you would be more familiar with that than I since you were a member of the House and I—

BY JUDGE COLEMAN: Well I know, that was back in 1960 and '62 and it's been a long time ago. They may have discontinued it but they used to have a tape recorder that was hooked up to the mikes and everything that was said was recorded. The reason I know is because I got several transcriptions of what was said there on certain occasions for my own personal use, but in any event—

BY MR. SUMMER: (Interrupting) I would certainly object if they do have such a recording that it be used as the best [243] evidence. Secondly my objection would be that a legislative debate per se between a hot issue involving a man's seat in an office is no way to prove the validity or invalidity of a plan that was adopted finally by the whole legislature, and to get into single individual debates among those members most vitally effected by the plan would be to get into personal debates based on personal feelings and have no value whatsoever other than how they felt about it. It's based on no formula, it may have been personal feeling insofar as we know. Maybe he can establish that. But unless he does establish it I certainly would object to any verbatim debate or how a single member who was vitally effected voted.

BY JUDGE COLEMAN: Well we can settle that, I think, very easily by directing the Marshal to go to the telephone and see if he can get ahold of the Clerk of the House and see whether or not these debates were recorded on tape.

BY MR. PARKER: I can simply ask the witness, Your Honor.

BY JUDGE COLEMAN: If he knows, I don't know whether he knows.

BY MR. PARKER:

[244] Q. Are you familiar with the proceedings of the Mississippi Legislature and the House of Representatives, Mr. Barber?

A. Yes.

Q. And in what capacity?

A. I have assisted Representative Clark for some years now.

Q. Are the debates in the House of Representatives recorded verbatim in any way?

A. If they are it sure is a secret to me.

Q. As far as you know they are not?

A. As far as I know they are not.

BY JUDGE COLEMAN: Well all right, sir, we will just have the Marshal contact the Clerk and see if those debates are recorded, and if so we will get the recording of the entire debate and that certainly will be relevant on legislative history if we can get an accurate resume of what happened of the entire debate. Find out about it, please, sir, and just save that point until, we will come back to it when we learn the answer.

BY MR. PARKER: Could we ask the Court leave to do this, to allow Mr. Barber to testify subject to Attorney General Summer's objection?

[245] BY JUDGE COLEMAN: Well let's just wait and see if we can get the best evidence. If we can why we will get it, if not we will see what we'll do then. Ordinarily of course the legislative history in the Congress as you will know is proven by the stenographic report of the debate because they are all recorded in Congress. Now we get off into a very serious area when

we start allowing legislative history to be shown by what some person thinks he heard or may have heard or by stating one isolated portion of what was said by some one member of the House. I'd rather avoid that if we can by getting the entire record of the whole debate.

BY MR. SUMMER: Court please, we might be able to add some light to the fact, and I can't recall the citation at the present time, but the Mississippi Supreme Court I think has held on numerous occasions that you can't look behind the law after the governor has affixed his signature as to motive. And I think that's well-established in Mississippi.

BY JUDGE COLEMAN: Well I think it's the law everywhere that you can't look to motive, but this wouldn't altogether be a matter of motive, I think. We'll just wait and see if [246] we can get the record on it.

BY MR. PARKER: I may say, Your Honor, that I am familiar with the history of the tuition grant cases in Mississippi in which the United States and private plaintiffs challenged successive enactments by the Mississippi Legislature of tuition grant legislation, and my recollection is that in those cases that the Attorney General's office stipulated that no recorded debate was made of legislative debate on legislation in the Mississippi Legislature, and that therefore the Court was required to rely on other evidence as to what exactly occurred in the legislative debate.

BY JUDGE COLEMAN: Well I know, we don't have to get in such a big hurry about what we can find out so far as facts whether they have the recordings or not. If they do not well then we will see about it. Did you have any other evidence you wanted to adduce by this witness?

BY MR. PARKER: No, Your Honor, that was all.

BY JUDGE COLEMAN: Well we should have a report by the time they get through cross-examining him, if they do cross- [247] examine him. Any cross-examination, gentlemen?

## CROSS-EXAMINATION

BY MR. SUMMER:

Q. Mr. Barber, you say you started in 1964 to assist those persons poverty stricken and discriminated against previously to register and to vote. When was the last time, sir, that you took someone to register or to vote and were refused?

A. I have within the last, say three years, had some instances, I'm trying to recall in my mind, of objecting to procedures within a precinct that resulted in people being unable to cast a ballot that would be counted, and I guess that's what you're talking about.

Q. Have you ever observed under the same circumstances and the procedure that you're talking about a white person also being prevented from voting because of similar circumstances?

A. I cannot specifically recall, but if it was it would have been, I have personally witnessed many blacks so excluded from the process. I have not personally to my recollection seen many whites, perhaps some.

Q. Some?

A. No Answer.

Q. Now, let's get into a time factor and let's get directly. Tell the Court the name, place and circumstance [248] around the last person whom you knew of your own knowledge who wanted to register to vote who was prevented from doing so.

A. Let me see what I've got in the way of notes. I've got some with me.

BY JUDGE COLEMAN: To shorten matters some for the witness by saying those instances in which he saw some person denied the right to register on account of his race, that is what we are concerned with. They might say you haven't lived here long enough or something else, let's get down to the people you have seen denied the opportunity to register on account of race and when and so forth.



BY THE WITNESS: I have not witnessed denial of registration right in quite some years, almost all ten, on the right to vote. The last I recall was in Hollandale in 1973 and I'm looking for my—

BY MR. SUMMER:

Q. (Interrupting) Was that on the basis of race?

A. I believe so.

Q. Do you know?

A. No, sir, I cannot attribute motive—

Q. (Interrupting) Tell us of the last one you know.

[249] A. But all, you know, I can say is that if I can find my notes I can tell you how many people it was and they were in that instance all black. There were no whites so excluded in that instance, it was attributed to me by those people who were denied as their feeling that it was done because of race. I cannot attribute motive personally to the election official who did it.

Q. And what you're saying is that the people attributed that fact to you and you did not know it of your own personal knowledge?

A. Except that the effect was a racial one.

Q. Well how could you know the effect was racial if you did not know of your own knowledge why?

A. One, because each excluded person was black, the excluding official was white, the contest was one of a heated contest between a black and a white candidate, the effect of black people not being able to cast a ballot appears to be racial discrimination to me.

Q. Do you know whether or not they met the requirements to cast a vote at that particular time?

A. I, some of them did, some of them did, I did not verify each and every one.

BY JUDGE COLEMAN: [250] Were they allowed to cast a challenge ballot—

BY THE WITNESS: (Interrupting) Challenge vote which was not counted, right.

BY JUDGE COLEMAN: But they were allowed to cast a challenge ballot which is, you know, the practice of challenging the right to vote has gone on so far as I know in all generations, regardless of race, but they

were allowed at least to cast a ballot subject to challenge and then you say at a later time they were just not counted?

BY THE WITNESS: That's right.

BY JUDGE COLEMAN: All right. Now what was the reason assigned for not counting them?

BY THE WITNESS: No Answer.

BY JUDGE COLEMAN: We're talking of Hollandale, I suppose, in 1973, what kind of race was going on?

BY THE WITNESS: It was a municipal election.

BY JUDGE COLEMAN: [251] Town election?

BY THE WITNESS: Town election. And I have the note on it here somewhere. I looked at it last night.

BY JUDGE COLEMAN: So this really was local authorities rather than state authorities?

BY THE WITNESS: Yes, sir. Well all election officials in a sense are local authorities.

BY JUDGE COLEMAN: Well I must say to you before we get the record all garbled up here that elections in municipalities are carried on by people chosen by the municipal authorities whereas in all other elections they are chosen by the county officials who conduct both state and county elections, and I think to that extent they are state officials.

BY THE WITNESS: No, I wasn't speaking of legally, I was speaking they are local people indigenous to that area—

JUDGE COLEMAN: Oh sure.

BY THE WITNESS: As opposed to people coming from—

[252] BY JUDGE COLEMAN: Everybody is supposed to vote where they live.

BY THE WITNESS: I can't find my notes on that. But I have on several occasions over the last few years, you know, made record of problems surrounding elections and denial of the right to vote and we have filed papers concerning that with Justice Department and with lawyers.

BY MR. SUMMER:

Q. Well now if that is true, Mr. Barber, why is it that when I made a request of the Justice Department of any such instances they may have had in the past five years they told myself, and I believe both congressional committees, that they had none.

BY MR. PARKER: We object, Your Honor, Mr. Barber is not with the Justice Department and would not be able to explain in any way whether they were adequate or inadequate in any explanation to Attorney General Summer.

BY JUDGE COLEMAN: The objection will be sustained, you can go into that when you put on your own case if you so desire.

BY MR. SUMMER:

Q. What I'm asking you, Mr. Barber, is are you telling this Court that you have had a lot of experience in [253] this area, that you do or do not believe that black people can participate in the political process today if they so desire?

A. I think that they technical bars to political participation are 99 percent down.

Q. 99 percent down. So in your—

A. (Interrupting) But, you know, if I could continue.

Q. That's a pretty good percentage in any field, isn't it?

A. You know, I think that the, the outright go-aways are at a very minimum. I do talk to real people however who still carry on the feeling, especially among the older people who have been around a long time, there are those who still believe and there is nothing I can say to change them, that if they go and vote or go and register someone will take away their welfare check. Now they believe that. I'm not saying that I know of that happening at all, but they do believe that, and they act politically on that belief in the same way plantation people who live on plantations tend to vote and register in smaller numbers because they believe that mysteriously the man is going to know who they voted for.

Q. Do you know of any state official elected, appointed or otherwise who has imparted that feeling to anyone?

[254] A. I am sure that, not of my own personal knowledge.

Q. All right, that's all I want to know. Now, you are familiar with Mr. Clarence Mitchell, Jr., the head of the NAACP, are you not?

A. By reputation—

BY MR. PARKER: (Interrupting) I object, Clarence Mitchell, Jr. is not the head of the NAACP.

BY MR. SUMMER: All right, whatever he is, maybe you could tell me.

BY MR. PARKER: And I object to his characterization of whatever he is too.

BY MR. SUMMER: Your Honor, I'm simply trying to find out his title, I'm not trying to belittle the man at all.

BY JUDGE COLEMAN: Let's don't have any argument now back and forth among the lawyers, and just ask him who Mr. Mitchell is and so forth, I know Mr. Mitchell personally but I couldn't say what his official functions are and what organizations he belongs to. Why don't you just ask the witness.

BY MR. SUMMER: Thank you, sir.

[255] Q. Do you know Clarence Mitchell, Jr.?

A. Not personally, by reputation only.

Q. Do you know what office he may hold?

A. I believe, well he is a member of the Leadership Conference on Civil Rights and I believe that he is, I believe he is a registered lobbyist in Washington for both them and the NAACP, but I would not swear under oath that that is what he is, but that's what I believe I recall as being his position.

Q. You do then believe that he holds a leadership spot in the NAACP?

A. Yes.

Q. You take issue with his statement that 300,000 out of 450,000 blacks in Mississippi of voting age are registered to vote?

A. The figure I use is 290,000, but I won't—



Q. (Interrupting) So that's roughly 75 percent of those who are of voting age who have registered and are qualified to vote in Mississippi, is it not?

A. I believe it is like 60, I want to look at something before I respond to that. I'm not clear on what the potential voting age population is statewide and I don't have that figure in front of me, and that's what I was looking for.

BY JUDGE COLEMAN: [256] Let me see if I can't clear this up and move on—

BY THE WITNESS: (Interrupting) Somewhere between—

BY JUDGE COLEMAN: Haven't you already testified that it was somewhere between 67 and 73 percent?

BY THE WITNESS: Yes, sir.

BY JUDGE COLEMAN: All right.

BY THE WITNESS: 66 to 70, I think.

BY MR. SUMMER:

Q. All right, sir. Are you familiar with the city of Corinth?

A. Yes, I am.

Q. Are you familiar with a recent municipal election in the city of Corinth?

A. Yes, I am.

Q. Are you familiar with the fact that a black man was elected to the city council in Corinth?

A. Yes, I am.

Q. Are you familiar with the percentages of black residents in the city of Corinth?

A. Yes, I am.

[257] Q. Would you tell the court those figures?

A. It's about 10, 15 percent black.

Q. And by what percentage was the gentleman elected?

A. At least by a majority, I don't recall offhand.

Q. How does this square with your—

A. (Interrupting) I said earlier that there were, you know, five or six exceptions of some significance and one of them happens to be that one, yes, sir. You can find them all.

Q. Yes, sir.

A. Go ahead.

Q. Well you've got a theory and we—

A. (Interrupting) Well that's fine, my theory—

Q. (Continuing) are testing your theory.

A. That's cool.

Q. And we found that you've got 80 to 90 supervisors districts in this state whereby if the blacks were to vote in block as your theory carries out that you would have 80 to 90 supervisors instead of 10.

A. No, that isn't what I testified to on direct. I said 40 approximately have an effective—

Q. (Interrupting) Your registered to voting age statistics.

A. Yes, sir, I can't vote five year olds.

Q. All right, sir. Now do you know anywhere in the law or otherwise where voting age has anything to do with [258] the one man one vote requirement of reapportionment?

A. My testimony had to do with the history of discrimination in the State of Mississippi that that was a positive factor for making blacks participate in the political process at a ratio less than white did, and that that is a significant factor in Mississippi politics today, and that that factor deemed that the reality of today comes into play when you begin discussing dilution of the black vote. I in no way said that it effected the one man one vote theory.

Q. All right, sir. Do you know how many black public officials the State of Mississippi has today?

A. The Joint Center in Washington reported 190, but there was a great variety of officials included among that.

Q. Do you know how many states have more black elected officials than the State of Mississippi?

A. Probably three or four and that's all.

Q. If I told you it was one would you disagree with that?

A. Well I'd want to go look it up because, you know, I don't want to take your word for it.

Q. I don't want you to take my word for it. You are the one who has run all of these studies but unfortunately it only relates within the State of Mississippi.

A. That's right.

Q. And these are matters of grave importance and in order [259] for them to be effective I think they have to compare with something. And you are comparing them with nothing. So, and I'm simply stating do you know how many states have more black elected officials than Mississippi, even those who are not under the Voting Rights Act?

A. I don't know for sure, no.

Q. All right. Would you say that the blacks had a problem in the state of Michigan in registering and voting?

A. I can't speak to that question, I've never made a study of black political participation in Michigan.

Q. And as a matter of fact you have never made any comparisons with the testimony, of all the testimony that you have given us here about the manner and method and so forth of how they register and vote, you have made no comparison with any state who may never have had any restrictions on registering and voting of blacks, have you?

A. Well one comparison I did look at and it was not extensive since this is on reapportionment of the legislature and we only have one black legislator, I do look at Alabama with a dozen and Georgia with more than that and Louisiana with a bunch, you know, of other places that have less overall statewide percentage black population—

[260] Q. (Interrupting) Do you know what kind of—

A. (Interrupting) They have more black representatives at the legislative level, you know, which is what I think is most relevant here is legislative level, not how many—

Q. (Interrupting) Why?

A. Well because each state has different kinds of offices and those list all sorts of political offices that may or may not correspond to offices in other states, and what we are really talking about is legislative, how

public policy is made on a statewide basis by a state legislature, and in that respect Mississippi only has one and there is virtually no black input, you know, into Mississippi legislature, there is significantly more in Alabama, Georgia, Louisiana, Illinois, New York, Michigan. I could name states in which that is the case, and that's what I think the issue is here today.

Q. All right. Then maybe you can explain to me why Alabama has more blacks in the legislature—

A. (Interrupting) They're of single member districts.

Q. They have a single member district?

A. Yes, sir.

Q. Is it a court ordered plan?

A. I believe so.

[261] Q. What about Louisiana, how many do they have?

A. I can't give you the exact number, but I've seen it at one time or another recently.

Q. How many does Arkansas have?

A. Arkansas has about four or five, I believe.

Q. I want you to tell—

A. (Interrupting) I don't have the figures—

Q. (Interrupting) You don't know?

A. I don't know for sure.

Q. Tennessee?

A. Several, I don't know the exact number. I, you know, personally met some from Memphis—

Q. (Interrupting) Do you know how many black office holders the the entire state of Tennessee has?

A. No.

Q. Do you know how it compares with Mississippi?

A. No, I don't.

Q. Do you know how any of those states I named compare with Mississippi in regard to black office holding?

A. No, I don't.

Q. Particularly Alabama?

A. No, I don't.

Q. All right, sir.



A. I do know how, you know, that there are more legislators in those states than there are in Mississippi.

[262] Q. But you don't know why?

A. Yes, I do, I stated why, single member districts.

Q. Single member districts?

BY MR. PARKER: Speak up.

BY THE WITNESS: Single member districts.

BY MR. SUMMER:

Q. Then,—

A. (Interrupting) The representation of homogenous groupings of people, a community of concern, you know, and they are districted differently. It seems that the Courts have ordered it in some of these other states and in some of the others that as I mentioned there has been a history of single member districts within the large municipalities and as they became black blacks began to be represented in the legislature.

Q. Are you an advocate of the single member district plan?

A. Yes, sir.

BY MR. SUMMER: Excuse me, if the Court please.

Q. Do you know of your own personal knowledge any difficulties, I believe you have already answered this [263] question, any difficulties of blacks in registering to vote, and I believe you answered, your previous answer was no. Do you know of any problem that the blacks may have in choosing the political party they desire to support?

A. There is no party registration in Mississippi so nobody knows what party you support.

Q. All right, sir. Do you know of any blacks who have been prevented from meaningfully participating in political process of Mississippi or party activity?

A. Historically I do of my own personal knowledge and it is my—

Q. (Interrupting) Well then I will limit that, within the past five or six years?

A. Yes, I do. I know of people, yes, who have been denied the ballot—

Q. (Interrupting) Give us a specific, if you know tell us specifically what you know and who it involves and where it was involved.

A. I just don't happen to have that stuff with me.

Q. All right, sir. Do you know of any—

BY JUDGE COLEMAN: Just a minute, this is quite important. You are not able to recall it although you personally witnessed it?

[264] BY THE WITNESS: What he, I started to recall and then he pushed me on the Hollandale situation, he pushed me for such specifics that I hesitate to, you know, to do that kind of thing from memory. I am not going to be able to recall the name of the person, the exact reason why the person was excluded, what we, you know, subsequently investigated it, you know, the facts to be and what the final determination was by the Election Commission, I don't have all that stuff available here today.

BY JUDGE COLEMAN: Well let me just see if I can straighten this out a little bit in the interest of getting the facts if we can. I believe you have already testified that you have not witnessed anybody being denied the right to register on account of race, you say you have not seen that?

BY THE WITNESS: Not within the time restraints.

BY JUDGE COLEMAN: Which were?

BY THE WITNESS: Which were five to six years.

BY JUDGE COLEMAN: [265] All right. Now, number two, you say you have seen people, you have already testified about what went on in Hollandale and I understand what you testified too, I'm sure the other judges do, what other places have you seen actual discrimination on account of race practiced at the polls within the past five years, just the names of the places, you can remember that, I'm sure, without a memoranda.

BY THE WITNESS: I was in the Farmhaven polling place in—

BY JUDGE COLEMAN: All right, that's in Madison—

BY THE WITNESS: (Interrupting) That's in Madison County in 1972 general election.

BY JUDGE COLEMAN: That's a presidential election?

BY THE WITNESS: It was a presidential election and election commissioner election, and—

BY JUDGE COLEMAN: Now then the next place, just naming places only.

BY THE WITNESS: Those are all that within the time constraints that I personally witnessed the event.

[266] BY JUDGE COLEMAN: That would be Farmhaven—

BY THE WITNESS: (Interrupting) And Hollendale would be the most recent which I personally witnessed, yes, sir.

BY JUDGE COLEMAN: Now then I think he's told us enough about that, Mr. Attorney General. Let's move on to some other—

BY MR. SUMMER: I think that's all I want to know about that.

#### REDIRECT EXAMINATION

BY MR. PARKER:

Q. Do I understand your testimony to be, Mr. Barber, that there's no record in Mississippi of black people ever being excluded from the affairs of any political party?

A. No, that's not what I said.

Q. Have there been incidents that you know of of black people being excluded from political party affairs in Mississippi?

A. Are you asking me of my own personal knowledge?

Q. Well do you know as a matter of common knowledge?

A. As a matter of common knowledge blacks were excluded from the Democratic Party.

Q. Are you saying—

[267] BY MR. SUMMER: (Interrupting) If the Court please, I object to this because this was what I was trying to get around in my question. There's a lot of common knowledge on a whole lot of peoples part

that have it in different common form, and the reason I wanted to get him to answer directly was to get this business of common knowledge out of it and get down to some facts.

BY MR. PARKER: That's already been decided by the Fifth Circuit, Your Honor, in Riddell versus the Democratic Party.

BY JUDGE COLEMAN: If it has been decided as a matter of Court decision we are bound to take judicial notice of all of our own decisions so let's go on now, gentlemen, we've got into quibbling I think now.

BY MR. PARKER:

Q. Never been any racial gerrymandering of supervisors district lines in Mississippi?

A. I wasn't even asked that question.

Q. Well you were asked a question, broad question about denial of access to the political process and I'm asking you, did you understand and did you, did I understand your testimony to mean that there had never been any gerrymandering of supervisors district lines [268] in Mississippi?

A. Definitely not. I think there is a good deal of effective gerrymandering, I have looked at the beats in 1970 prior to the redistricting wave and I've looked at them again from a racial makeup subsequent to those redistrictings and to the best of my recollection I think I do have a file on that that shows that, let me check.

BY JUDGE COLEMAN: While you're looking for that I'll inform counsel that we are now advised officially that there is at this time or hasn't been recently any recording of the debates in the Mississippi Legislature. So what they once did some 15 years ago is probably not, there is no probability about it, it's not done anymore so we don't have any way of getting a recording of the debate or a transcript of the debate.

BY MR. PARKER: You may finish your answer.

BY THE WITNESS: Okay. That while I testified that there are about 40 beats now with what I think, what I would call an effective black majority there were in 1970 approximately twice that number and that they



have been, the lines have been moved around and changed so as to [269] decrease the number of beats that have black majority.

BY JUDGE COLEMAN: That's been done mostly pursuant to court order, hasn't it, or if it appeared to be wrong it was certainly challenged in the court. What I'm getting at is this, gentlemen, we are going into a lot of generalities here that's not going to help the Court to decide this case at all one way or the other and we know from knowledge of what's going on that most of the beat changes in Mississippi have occurred because somebody filed a protest under the one man one vote rule and forced them to be changed and they were changed, a lot of them by court order, some of them after they were made voluntarily were challenged in Court, such as the LeFlore County case for example that I happen to remember right offhand because I sat on the original phase of the case, and I don't see where we're getting anywhere with this. Why don't you go back, please, sir, to your proposition about what happened in the legislation and let's thrash that out.

BY MR. PARKER:

Q. We are discussing the Charlie Mitchell Floor Amendment Number 1 to House Bill 1290. Do you have your notes on that debate, Mr. Barber?

[270] A. I did, yes, sir.

BY MR. SUMMER: If the Court please, in the interest of time I want to make an objection to any conversation or anything that was said by any individual member on the floor of the House in regard to debate when 98 percent out of 100 percent of the debate is not going to be introduced here today. It is nothing more than an exchange between two individuals who may or may not have been mad at each other. We have no background on it whatsoever and I'm not going to object to it anymore because I don't want to take the Court's time.

BY JUDGE COLEMAN: All right, I'm going to overrule the objection and allow him to testify to his version of what took place with the understanding that

counsel would require him to tell what the other participants on the floor said about the matter and the other circumstances from which we can judge whether this remark really represents any valued legislative history or not. We don't have any recording of it or any transcript of it and I think it's a better policy to let him tell what he says he heard some member of the legislature say if he said it in the form of debate, not in some private conversation. Obviously the Court is not going [271] to look at this now through a peephole, we're going to get it all out.

BY MR. PARKER: Very well.

Q. House Floor Amendment Number 1 was authored by Representative Charles Mitchell was favored by seven members of the Hinds County Delegation, was a single member plan for Hinds County. Would you describe as best you can to the Court what each of the members of the legislature said on the floor of the House of Representatives on March 14, 1975 in support and against Representative Mitchell's Amendment?

A. Representative Mitchell introduced his amendment, he said that a majority of the delegation favored this plan and said that basically let us do it ourselves rather than have the Courts do it. Mr. Parkman was the next to speak and spoke in favor of the single member plan citing Clarion-Ledger poll as favoring single member districts and then he stated the real reason for this suit is race and this plan will in all likelihood give blacks control over three seats and that ought to take care of the matter. Representative Richardson spoke in favor of the Mitchell Amendment and just said he was in favor of it. Horace Lester spoke against it saying because if you cut up [272] Hinds County the rest of you are next. He also argued for continuity and seniority which is easier under the at large method. Representative Walters spoke for the Mitchell Amendment saying that we must redistrict ourselves. Representative Kent spoke against it because he stated that it set a bad precedent of dividing up the county. Representative Barefield spoke against it saying that it violated 158 years of history and that the issue is not

Hinds County but statewide and adopting this Amendment abandons all of us and invites the Court to order statewide single member districts. He stated that race was not considered by the committee. Representative Mitchell closed the debate by begging pardon for the introduction of race into the argument.

Q. What was the vote on the roll callback?

A. 22 to 84.

Q. The Amendment lost?

A. The Amendment lost.

BY MR. PARKER: No further questions. I'm sorry.

Q. Do you recall that 8 members of the Hinds County delegation, 8 of the 12 ended up voting for the amendment?

A. Yes, but I don't have my notes right here on the vote.

BY MR. PARKER: [273] No further questions.

BY JUDGE COLEMAN: These were all white people, of course?

BY THE WITNESS: Yes, they were.

BY JUDGE COLEMAN: Who favored the Amendment?

BY THE WITNESS: That's correct.

BY JUDGE COLEMAN: And the only person that mentioned race was who?

BY THE WITNESS: Howard Parkman.

BY JUDGE COLEMAN: And what was it he said about race?

BY THE WITNESS: He said that race was the critical issue, racial dilution was the critical issue before the Court and that we have to deal with it in the legislature and create some districts that are, that give blacks a chance to win. He stated that on two occasions on the floor also on the debate again on the, on final passage.

BY JUDGE COLEMAN: Now what else did he say, I want to be very careful and learn everything that he said as far as you can [274] recall it.

BY THE WITNESS: As far as I can recall he talked about a Clarion-Ledger poll that had been taken

at some recent time, one of those things on the front page where they so many people—

BY JUDGE COLEMAN: What was the question in the paper?

BY THE WITNESS: Do you favor single member districts? And he said that the majority in that poll did favor single member districts.

BY JUDGE COLEMAN: That was in Hinds County or did they take the poll from everywhere, or do you know?

BY THE WITNESS: I don't know how the Clarion-Ledger decides how to do that thing. He also said that he personally, you know, favored the single member district even though it may be more difficult for him to run a campaign.

BY JUDGE COLEMAN: Of course it saves all of them from running, if you carve Hinds County up into 12 districts that would eliminate 11/12ths of the area and of the population before whom they would have to submit their candidacies.

[275] BY THE WITNESS: True.

BY JUDGE COLEMAN: You have told us everything of any racial connotation?

BY THE WITNESS: No answer.

BY JUDGE COLEMAN: Mr. Barefield, the Chairman of the Committee, said that there wasn't any race involved.

BY THE WITNESS: Said it wasn't mentioned in committee.

BY JUDGE COLEMAN: Well.

BY JUDGE COX: Bill, did you get his answer? Did you get his answer, he was just nodding.

BY THE COURT REPORTER: No, sir, I can't watch him.

BY JUDGE COLEMAN: Well I'm sorry, I overlooked that. Would you kindly go back and take the questions to which you don't have any recorded answer, and Reverend speak out now instead of just nodding your head. You have to answer verbally so he can get it, please, sir.



BY THE COURT REPORTER: [276] You have told us everything of any racial connotation? That's what he didn't answer.

BY THE WITNESS: Yes.

BY JUDGE COLEMAN: Was that the only one?

BY THE COURT REPORTER: Yes, sir.

BY JUDGE COLEMAN: All right. Anything further gentlemen of this witness?

BY MR. SUMMER: We have nothing.

BY JUDGE COLEMAN: All right.

BY MR. PARKER: Nothing further, Your Honor.

BY JUDGE COLEMAN: You may be excused. Who do you have next?

[Exhibits Omitted]

HENRY J. KIRKSEY

[277] BY MR. PARKER: Plaintiffs call Henry J. Kirksey.

HENRY J. KIRKSEY called as a witness for and on behalf of Plaintiffs, was sworn and testified as follows:

#### DIRECT EXAMINATION

BY JUDGE COLEMAN: Now we have the deposition of Mr. Kirksey so we will observe the same rule as to him that we have as to the others.

BY MR. PARKER:

Q. You are, give you name and address for the record please, Mr. Kirksey.

A. Henry J. Kirksey, 1123 Robinson Street, Jackson, Mississippi.

Q. You are the Henry J. Kirksey who is one of the plaintiffs in this case?

A. I am.

Q. Are you a registered voter in Mississippi in Hinds County?

A. I am.

Q. Have you been a candidate for the Mississippi Legislature?

A. I have.

Q. When and for what post?

A. 1971. Senate post 5.

[278] Q. And you were successful or defeated?

A. Defeated.

Q. Do you have a copy of your proposed alternative single member redistricting plan?

A. Yes, I do.

Q. Would you hand it to the Clerk please, one for the House and one for the Senate.

(Witness did.)

BY MR. PARKER: Ask that these be admitted in evidence, Your Honor. These were covered in the deposition testimony.

BY JUDGE COLEMAN: All right.

BY DEPUTY CLERK: As one exhibit or two?

BY MR. PARKER: Two separate exhibits if we may, please maam.

(Above referred proposed redistricting plan for Senate received in evidence and marked Plaintiff's Exhibit 32.)

(Above referred to proposed redistricting plan for House received in evidence and marked Plaintiffs' Exhibit 33.)

BY MR. PARKER:

Q. Now, Mr. Kirksey, have you analyzed House Bill 1290 and Senate Bill 2976 as they effect legislative redistrict- in Harrison and Jackson Counties?

[279] A. Yes, I have.

Q. In Harrison County House Bill 1290 provides for one by supervisors districts and two at large. Have you examined the census data on the supervisors districts of Harrison County to determine whether or not they are equal in population?

A. I have.

Q. And would you tell us according to the 1970 census the population of each supervisors district currently in Harrison County?

A. Beginning with beat one population 23,151, and if I may I will give a percentage which is a percent of the norm. The norm for Harrison County is 26,914.4, so that beat one has a population 23,151 minus 13.99%. Beat two has a population of 31,480 and a plus 16.96%. Beat three has a population of 17,276 and a minus 35.83%. Beat four has a population of 21,082 and its a minus 21.67%. Beat five has a population of 41,593 and that would be a plus 54.54%. Now that is a spread from the minus to the plus of 90.35% difference.

Q. That's a total deviation in the current supervisors districts of Harrison County of 90.35%?

A. Yes.

Q. Now, have you examined the supervisors districts in Jackson County as they were currently constituted to [280] determine whether those supervisors districts are properly apportioned?

A. Jackson County was redistricted after the 1970 disemial census of population, thus the present districts, that is it is not possible to determine the population of the present districts since enumeration districts are split by the current or the current redistricting of that county. I can give you figures for 1970 based on the preexisting.

Q. Those preplexing districts are no longer relevant?

A. Right. Now I would point out though further that the redistricting of Jackson County I believe by Judge Russell was done on the basis of registered voters rather than population.

Q. Earlier testimony—

BY JUDGE COLEMAN: May I intervene there to ask you to give us the figures as to the registered voters in each of the five districts of Jackson County as redistricted by the United States District Court?

BY THE WITNESS: I do not have those. I was in Pascagoula and the cost they quoted me for getting that was prohibitive so I did not get those figures.

BY JUDGE RUSSELL: [281] I think I can state as well as I remember that was an agreed order between

all the parties. There was no hearing I don't believe held on it.

BY JUDGE COLEMAN: Well now who were the parties to that litigation, were there black people represented in that settlement, who brought the suit and so forth?

BY JUDGE RUSSELL: I don't recall.

BY JUDGE COLEMAN: You don't recall that. Would the court's decree in the case reflect the population of the counties by beats of voting age?

BY JUDGE RUSSELL: I would assume so.

BY MR. PARKER:

Q. Mr. Kirksey, earlier in the testimony counsel for the state read the results of the votes senatorial and house races in Hinds County indicating you had gotten about 10,000 votes. Would you tell the court please how much you spent on your entire campaign?

A. Between 75 and \$85.00 that was given to me either one or two, two days prior to the election. I attempted to get some radio coverage and found that all the stations were scheduled through the election. I did manage to [282] get some spot announcements through WOKJ and that extended on into election day and were not in any form or fashion near what you would call prime time. That would mean after midnight or anytime that they found a spot that they could get me. I would further state in connection with my campaign that I appeared not more than half a dozen times with people who were campaigning. I gave other candidates some cards of mine to hand out. I was working at the time in the Evers campaign primarily or doing work for Evers. I did not campaign in the true sense of the word I never asked anyone to vote for me so that the blacks who voted for me voted primarily because my name was on a list of predominantly black candidates that was circulated.

Q. Now, would you tell the court based on your own experience whether there are any disadvantages to black candidates running in Hinds County in terms of finances and having to run for those senate seats on an at large countywide basis?



A. Well strictly its a tremendous undertaking financially. The easiest way and very best way to campaign would be by television. The next in my view would be radio as a convenient was for people to whether they read well or not to learn who the candidates are. The next best way would be through the newspaper, that is announcements in [283] newspaper and then finally through all kinds of printed matter, and I said finally but the final problem would be the means that requires the hardest amount of work and the longest time to complete would be the sort of door to door campaigning, a grass root kind of campaign.

Q. Do at large districts then create any special disadvantages to black people?

A. Very definitely. Blacks have the very lowest income level in all the states for that matter.

Q. You think it would be better if we had single member districts?

A. Very definitely so because it would limit the both the square mile area for campaigning and in most cases, that's not exactly true overall, there are some sparsely populated areas where that would not, that would not work, but blacks are in certain areas of the states are are highly concentrated so that we are talking about in the City of Jackson would be some four or five districts and possibly two senate districts and that would mean a minimum area of campaigning and whether or not the candidates were able to buy radio or television time would really not be too significant.

Q. And how many, in your plan, in your proposed plan, in how many house districts do you think the votes of the [284] black voters would be decisive?

A. I would have to give you an estimate.

Q. Yes.

A. About a day ago you asked me to do an analysis on that. I had not done it before because I felt I knew enough about the distribution of the black population in the state to estimate by simply looking at the map to determine that. Now, I would think that there was under my plan some 20, well, let me state it, Mr. Parker,

in terms of what I consider to be districts where blacks would most likely elect.

Q. We are talking about districts where black voters would be able to elect legislators of their choice?

A. Right. I would think that there's a dozen or more.

Q. A dozen or more?

A. Yes.

Q. How about in your senate plan?

A. Not more than four or five at the most.

BY MR. PARKER: No further questions, Your Honor.

### CROSS EXAMINATION

BY MR. SUMMER:

Q. Mr. Kirksey, you are the same gentleman that was the plaintiff in the Kirksey v. Board of Supervisors of Hinds County were you not?

[285] A. That's correct.

Q. And you are a plaintiff in this lawsuit, is that correct?

A. That's correct.

Q. And you represent the classes in both lawsuits do you not?

A. That's correct.

Q. And they are the same class of people are they not?

A. Correct.

Q. So much of the testimony in regard to what you have just testified to all of it was testified previously in the Kirksey v. Board of Supervisors case was it not?

BY MR. PARKER: We object, Your Honor. That didn't have anything to do legislative districts. That had to do with supervisors districts.

BY JUDGE COLEMAN: That's all true but now the legislature has directed that these men be elected by the supervisors districts and we have been talking about it all day so I think we better let him answer it.

BY MR. SUMMER:

Q. What was your answer, sir?

A. Now you will have to restate your question.

Q. All right sir. Now I have forgotten my question.

BY JUDGE COLEMAN: [286] Well, I didn't think it really was too significant. You asked him if he hadn't given most of the testimony in the county case that he was offering here today.

BY MR. SUMMER: I see. I see. Well, we will pass on from that.

Q. You mentioned something that interested me, Mr. Kirksey, about you a list upon which you were listed and got over 10,000 votes you thought because of and said I believe that that list contained the names of predominantly black candidates and was presented in and around the black community as the candidates for them to vote for, is that correct sir?

A. I think normally you call that a sample ballot thing.

Q. All right, but what was the purpose of it?

A. It was for the purpose of getting people out to vote.

Q. Did it have any racial connotation at all?

A. Just names of people and I can tell you more specifically what the source was, was voters league, I believe that's the, not voters league, its organization that's being reactivated currently, and the Charlie Evers headquarters the two groups got together and decided on who they would like to have on the ballot with themselves, that is all those candidates.

Q. I see.

A. And I was included in that bunch.

[287] Q. So you were very fortunate to get included upon that list at that time in view of the fact that you only had 75 or \$80.00 to spend on your other campaign?

A. Correct.

Q. And you were in the Evers campaign and participated strongly in that campaign?

A. Now that would be a misstatement.

Q. I understood you to say that?

A. Now I worked for, I developed material, campaign material, that means that nobody saw me working for Evers.

Q. And so while you were running for the senate they really didn't know that you were working for Evers?

A. In fact Mr. Evers didn't even know I was running for the senate until half way through the campaign because I wasn't really doing an effective job of campaigning.

Q. But who did this list go to, where was it handed out?

A. It was just generally handed out in the black community of Jackson and I am not saying that it was limited to that because I don't know specifically who it was delivered to.

Q. Yes sir.

A. But I do know that an attempt was made to deliver that sample ballot throughout the county and I do know that it was delivered in Jackson because I received some of [288] them myself.

Q. Would you have objected had a list of white candidates been prepared and passed out among the white community as the people to vote for in the block vote?

A. I am, uhh, there was nothing on that ballot first sample ballot first of all that said anything about a block vote. The democratic party always list a number of their candidates out and it is the same kind of thing, the republicans do the very same thing. This was an organization plus the gubernatorial candidate, Evers, passing out a sample ballot that they wanted the people to see and to react to favorably.

Q. You talking about the Loyalist Democratic Party?

A. No, no.

BY JUDGE COLEMAN: You were running in the general election were you not?

BY THE WITNESS: Running in the general election as an independent.

BY JUDGE COLEMAN: The November election, so you were running against the democratic nominees I suppose?

BY THE WITNESS: I am not sure that they were all democrats because there was a democrat, Jean Muirhead, the incumbent at the time.



[289] BY JUDGE COLEMAN: Who did you run against?

BY THE WITNESS: Jean Muirhead and—

BY JUDGE COLEMAN: Well she was republican wasn't she?

BY THE WITNESS: Well I believe so but she had previously been a democrat.

BY JUDGE COLEMAN: She was running as a republican.

BY THE WITNESS: Don Spann was the other candidate.

BY JUDGE COLEMAN: So you were running against a republican and a democrat?

BY THE WITNESS: Correct.

BY JUDGE COLEMAN: Three candidates?

BY THE WITNESS: Correct.

BY JUDGE COLEMAN: And you got 10,000 votes on \$80.00 of expense money. You need to show a lot of the rest of the people how to [290] operate inexpensive campaigns, getting 10,000 votes for \$80.00 worth of expenditures, that's pretty good.

BY THE WITNESS: Well, I think in all fairness if I might respond to that in all fairness I appeared on television announcing my candidacy with Jean Muirhead, it was a free thing, and I appeared at least two other times in public and spoke briefly, maybe half a minute or so during the Evers campaign. Now, I believe that to the best of my recollection with possibly two other appearances with smaller groups that was the extent.

BY JUDGE COLEMAN: I just wonder how many votes Mrs. Muirhead and Spann, you say the other man's name is Spann?

BY THE WITNESS: Yes sir.

BY JUDGE COLEMAN: How many votes did they get?

BY THE WITNESS: I believe Spann's vote, and I'm guessing, I can't be accurate, it was in excess of 30,000 I believe.

BY JUDGE COLEMAN: That he got?

BY THE WITNESS: Yes sir.

[291] BY JUDGE COLEMAN: He was democratic nominee?

BY THE WITNESS: Yes sir.

BY JUDGE COLEMAN: How many votes did the republican get?

BY THE WITNESS: Somewhere between the two of us, but more closely to Don Spann than to my level.

BY JUDGE COLEMAN: But you got 10,000 votes and how many black qualified electors were there in Hinds County?

BY THE WITNESS: I have a list that I obtained in 1971 for the City of Jackson and in the City of Jackson the voter registration is done on the basis of race by sight. If you should happen to have been a dark complexioned white person you would be listed as black, and if you were a light complexioned black person you would be likely be listed as white.

BY JUDGE COLEMAN: Suppose that balances out fairly well?

BY THE WITNESS: Maybe it does, I don't really know, but what I want to explain is that in the City of Jackson system is to [292] indicate the race with numbers beginning with white males as one, white female two, black male as three, black female as four, so that I have the print out of the voter registration in the City of Jackson to April, 1971, and my count of that, they would not give me a count from the city, in fact I had been asked by Mr. Parker to get a count by race from the city and from the county, and whereas the city did not refuse they said they did not have the time and the county said it was impossible because they didn't know, but the point that I am trying to make is that when I calculated the vote, and that means that I did it by hand, and my registration count was in excess something very close to 17,000 for the City of Jackson blacks.

BY JUDGE COLEMAN: But you got 10,000 votes in the whole county?

BY THE WITNESS: Very minimal outside the City of Jackson. Most of my votes came from the City of Jackson. I carried every black majority precinct.

BY JUDGE COLEMAN: How did you do in some of the white precincts?

BY THE WITNESS: I got about the same vote that Evers and Evers got, we got uhh somewhere something less than about 2%, and [293] that does, from my own point of view you can't accurately assess what that means because there are some precincts that are 100% white, there are some that are 100% black, in those precincts, white precincts that are knowing, that is according to the 1970 census are 100% white I received perhaps about the same number of votes that I received in those that had say 1 or 2% black.

BY JUDGE COLEMAN: What I am getting at though is that out of 17,000 qualified black electors in the City of Jackson and after a slate had been circulated you got 10 out of the 17,000?

BY THE WITNESS: Yes sir.

BY MR. SUMMER:

Q. I have heard the figure 34,000 banded around in many hearings here and before the U.S. Congressional Committees as being the number of qualified black electors in Hinds County. Would you quarrel with that figure now?

A. I would.

Q. Huh?

A. I would. Now of what date, maybe I better qualify that?

Q. As of today?

[294] A. Well, I wouldn't quarrel because I don't know what it is today. My figures are for, as I said before, April 1971.

Q. You have run in how many races, Mr. Kirksey?

A. One.

Q. One race?

A. First and the last for me.

Q. How many times have you voted?

A. I have voted in every election from the time that I qualified in Hinds County. I wouldn't say every one, I can't swear that's a fact, but I have voted in most

elections since 1961 when I moved to Hinds County, and I have missed a few.

Q. And you have appeared on television with the other candidates, black and white?

A. You make that sound very important. It was like this is Jean Muirhead and this is Henry Kirksey, you give your name, that kind of thing, very briefly.

Q. Same thing they got, they got no more and no less than what you got, is that correct?

A. Uhh, not everyone is entitled to because some refused it because it had, uhh, one of the provisions was that you would answer some questions by the reporter and some people didn't want to answer those questions.

Q. That was a political decision they made?

[295] A. Yes.

Q. They had the opportunity to be there if they had wanted to?

A. Yes sir.

Q. And were willing to answer the questions. Then you have had no problem in participating in the political processes of Mississippi?

A. Hinds County, no. I am originally from Lee County.

Q. How long have you been in Hinds County?

A. Since 1961.

Q. So you have had no problem since 1961 participating in the political process?

A. No, not personally.

BY MR. SUMMER: I believe that's all.

## REDIRECT EXAMINATION

BY MR. PARKER:

Q. Mr. Kirksey, there was one other thing. Did I ask you to draw a series of maps showing combination of black majority counties and white majority counties under the house plan and the senate plan?

A. You did.

Q. Ask you to identify these please. Are these those maps?

A. Yes, they are.



Q. And these are based on 1970 census data?

[296] A. Correct.

BY MR. PARKER: I ask that these maps be admitted in evidence, Your Honor, as illustrating the point made.

BY JUDGE COLEMAN: They may be.

(Received in evidence and marked Plaintiffs' Exhibit 34.)

BY MR. PARKER: No further questions.

BY JUDGE COLEMAN: Mr. Kirksey, in reading either the committee report or the bill one or the bills providing for this legislative reapportionment it is said that Hurricane Camille so disrupted the population status of Harrison County that the District Court, the United States District Court for the Southern District of Mississippi, had declined an effort to reapportion Harrison County, and that left the legislature with no current information to travel on. I haven't heard any evidence about that or nobody seems to challenge that proposition, and most everybody knows what Hurricane Camille did to Harrison County and I am sorry of course that it happened. What do you have to say on that point, maybe it being they say the worst hurricane to ever strike the American Continent in recorded history maybe that was basis enough for the [297] District Judge in the exercise of his discretion to decline to reapportion that county until such time as he had a stable population to act on. Do you know anything at all about that?

BY THE WITNESS: I couldn't comment as to, well, let me try it this way.

BY JUDGE COLEMAN: All right.

BY THE WITNESS: The census data indicates the housing also. I did not go but I could have gone further into the types of housing which would in all probability would have been indicative of temporary structures in some cases to indicate that these were people who were displaced by the hurricane. I didn't see a thing in the census data to indicate that these were temporary situations with the people.

BY JUDGE COLEMAN: I think that we would be entitled to take judicial notice of what the United States District Court found about that. I don't believe anybody has made that available but I suppose that I should direct counsel for somebody, I guess the defendants, to make the disposition of the District Court on that available to us. We are sitting as a District Court ourselves and [298] in this district. I notice that is what the legislature says about it. I would rather see what the court said about it. That's just as to Harrison County.

BY JUDGE RUSSELL: There have been some statistics gathered because they have been published in the newspaper do there that there has been a shift of population.

BY JUDGE COX: Who handled that?

BY JUDGE COLEMAN: Before Judge Nixon.

BY JUDGE RUSSELL: There has been some statistics since the hurricane in the newspaper and the court could take judicial notice of that. Those of us who live down there have more than judicial knowledge. We sweated it out.

BY JUDGE COLEMAN: Anything further of this witness?

BY MR. SUMMER: Nothing.

BY MR. PARKER: Nothing further of Mr. Kirksey.

BY JUDGE COLEMAN: All right, sir, you are excused.

(Witness excused.)

[Exhibits Omitted]

• • • •

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

Civil Action No. 3830A

[Filed Jun. 11, 1975]

PEGGY J. CONNOR, ET AL., PLAINTIFFS

v.

WILLIAM L. WALLER, ET AL., DEFENDANTS

AND

UNITED STATES OF AMERICA, PLAINTIFF-INTERVENOR

ORDER

Upon motion of the United States, and the Court having been advised of the premises, it is hereby

ORDERED, ADJUDGED AND DECREED that the United States of America be hereby allowed to intervene as party plaintiff in the above captioned matter.

ORDERED, this June 11, A.D., 1975.

/s/ Harold Cox  
United States District Judge

June 11, 1975

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

Civil Action No. 3830A

[Filed June 11, 1975]

PEGGY J. CONNOR, ET AL., PLAINTIFFS

v.

WILLIAM L. WALLER, ET AL., DEFENDANTS

AND

UNITED STATES OF AMERICA, PLAINTIFF-INTERVENOR

COMPLAINT IN INTERVENTION

The United States of America alleges:

1. The Attorney General brings this action on behalf of the United States of America pursuant to 42 U.S.C. 1971(a)(1), 1971(c), 1973, 1973(c), 1973j(d) and 2000h-2, and in order to secure rights guaranteed by the Fourteenth and Fifteenth Amendments to the United States Constitution.

2. This Court has jurisdiction of this action pursuant to 42 U.S.C. 1971(d), and 1973j(f) and 28 U.S.C. 1343, 1345, and 2201. A three-judge court is required pursuant to 42 U.S.C. 1973(c) and 28 U.S.C. 2281.

3a. Defendant William L. Waller is Governor of Mississippi. Pursuant to Title 23, Code of Mississippi, 1972, he has the duty to commission all persons certified by the Secretary of State as duly elected to the office such person sought except for state officers as provided in the Mississippi Constitution, Article 5, Sections 140 and 142.

b. Defendant A. F. Summer is Attorney General of Mississippi and, as such, is the chief legal officer of the State of Mississippi. Mississippi Constitution, Article 6, Section 173.



c. Heber Ladner is Secretary of State of Mississippi and has the duty pursuant to Title 23, Code of Mississippi, 1972, to ascertain the person receiving the highest number of votes for election to office, other than state officers as provided in Mississippi Constitution, Article 5, Sections 140 and 142, declaring the person duly elected to each such office and certifying the election of such person to the Governor.

d. William Waller, Governor, A. F. Summer, Attorney General, and Heber Ladner, Secretary of State, are members of the State Board of Election Commissioners. 23-5-1 Code of Mississippi, 1972. As such, they have the responsibilities set forth in Title 23, Code of Mississippi, 1972, for conducting the elections of members of the House of Representatives and the Senate of the State of Mississippi.

4. The provisions of Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, apply to the State of Mississippi.

5. House Bill No. 1290 and Senate Bill No. 2976, Mississippi Laws, 1975 Regular Session, were enacted by the 1975 Regular Session of the Mississippi Legislature and signed and approved by Governor William L. Waller on April 8, 1975, and April 7, 1975, respectively, thereby becoming the law of the State of Mississippi pursuant to Mississippi Constitution, Article 4, Section 72. Together they constitute a legislative redistricting plan for the Mississippi House of Representatives and Mississippi Senate which alter and change the prior districts in effect.

6. House Bill 1290 and Senate Bill 2976, Mississippi Laws, 1975 Regular Session, constitute a standard, practice or procedure with respect to voting different from that in force or effect on November 1, 1964, within the meaning of Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c, as amended.

7. Defendants have not, as provided by Section 5 of the Voting Rights Act, obtained a declaratory judgment from the United States District Court for the District of Columbia declaring that the qualification, prerequisite, standard, practice or procedure described in the next

preceding paragraph does not have the purpose or effect of denying or abridging the right to vote on account of race or color. On June 9, 1975, a submission of House Bill 1290 and Senate Bill 2976 was made to the United States Attorney General for review under Section 5 of the Voting Rights Act of 1965 and on June 10, 1975, an objection was interposed.

8. On June 5, 1975, the United States Supreme Court declared that House Bill 1290 and Senate Bill 2976 "are not now and will not be effective as laws until and unless cleared pursuant to § 5." *Connor v. Waller*, No. 74-1509 (June 5, 1975).

9. The apportionment plans last used by the State of Mississippi, for its legislative elections, in 1971, were ordered into effect by the district court and subsequently vacated by the Supreme Court, except insofar as they applied to the 1971 elections. *Connor v. Williams*, 404 U.S. 549 (1972).

10. The apportionment plans adopted by the Mississippi legislature just prior to the plans described in the next preceding paragraph were struck down by the district court for failing to meet Fourteenth and Fifteenth Amendment requirements.

11. Except for another interim redistricting plan ordered by the district court for the 1967 elections, 265 F. Supp. 492, the apportionment plan in effect immediately prior to the adoption of the plans described in the next preceding paragraph was malapportioned under the Fourteenth Amendment and would therefore be invalid for use in the 1975 elections.

12. The defendants have indicated their intention to utilize the now nullified plans described in paragraph 9 above for the 1975 Mississippi legislative elections.

WHEREFORE, plaintiff prays that this cause be set for an expeditious hearing and that a court of three judges hear this action pursuant to 28 U.S.C. 2284 and Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c, and thereafter issue a judgment:

(a) Enjoining defendants, their agents and successors in office, and all persons acting in concert with

any of them from administering, executing or enforcing any of the provisions of House Bill 1290 and Senate Bill 2976, Mississippi Laws, 1975 Regular Session, unless and until such statutes have been cleared pursuant to Section 5 of the Voting Rights Act of 1965.

- (b) Enjoining defendants, their agents and successors in office, and all persons acting in concert with any of them, from administering, executing or enforcing any apportionment plan for the House of Representatives or Senate of the State of Mississippi that is not in compliance with the Voting Rights Act of 1965.
- (c) Enjoining any effort to implement for the 1975 elections the plans of apportionment used in the 1971 elections.
- (d) Ordering the implementation of a plan apportioning the House of Representatives and the Senate for the State of Mississippi for the elections scheduled to be held in 1975 and thereafter or until the legislature of the State of Mississippi enacts an apportionment plan for the House of Representatives and Senate of the State of Mississippi that meets the requirements of Section 5 of the Voting Rights Act of 1965.

Plaintiff further prays that this Court grant such additional relief as the interest of justice may require, together with costs and disbursements of this action.

/s/ Edward H. Levi  
EDWARD H. LEVI  
Attorney General

/s/ J. Sanley Pottinger  
J. STANLEY POTTINGER  
Assistant Attorney General

/s/ Robert E. Hauberg  
ROBERT E. HAUBERG  
United States Attorney

/s/ Gerald W. Jones  
GERALD W. JONES  
Attorney  
Department of Justice  
Washington, D.C. 20530

/s/ Michael D. Johnson  
MICHAEL D. JOHNSON  
Attorney  
Department of Justice  
Washington, D.C. 20530



CERTIFICATE OF THE ATTORNEY GENERAL  
OF THE UNITED STATES

I, Edward H. Levi, Attorney General of the United States, hereby certify that the case of *Connor, et al v. William L. Waller, et al.*, Civil Action No. 3830A, now pending in the United States District Court for the Southern District of Mississippi, in which relief is sought from the denial of equal protection of the laws based on race or color, is a case of general public importance within the meaning of Section 902 of the Civil Rights Act of 1964.

Signed this 10th day of June, 1975.

/s/ Edward H. Levi  
EDWARD H. LEVI  
Attorney General

[Certificate of Service Omitted]

\* \* \* \*

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

Civil Action No. 3830A

ANALYSIS OF HOUSE BILL 1290 AND SENATE  
BILL 2976 BY THE UNITED STATES

[Caption Omitted]

[Submitted to Court June 20, 1975]

ANALYSIS OF HOUSE BILL 1290

House Bill 1290 utilizes a combination of single-member districts, multi-member districts and floterial districts. There are both single-county and multi-county combinations in each of these groups. In analyzing House Bill 1290, consideration was given to the effect on black voting strength of using these various type of districts, the particular combination of counties used, and the use of county boundaries as the minimum building block for districts. Using these considerations, we found Districts 3, 9, 13-15, 17, 23, 24, 28-34, 37, 39, 40 and 46 to be objectionable. Many other districts which we did not find objectionable in and of themselves insofar as Section 5 considerations were concerned, we did find to be seriously malportioned and/or have to be altered in order to eliminate the dilution of black voting strength existent in the objectionable districts. Accordingly, the alternative attached hereto as Appendix A leaves only District 90 (Tate County) intact.

None of the eleven single-county single-member districts<sup>1</sup> nor the two multi-county single-member districts<sup>2</sup> are objectionable.

House Bill 1290 creates two single-county floterial districts: District 31 (Hinds County) and District 45 (Harrison County). Both of these counties are counties for which the Supreme Court has directed the creation of

<sup>1</sup> Districts 5-7, 10, 12, 19, 20, 22, 36, 41 and 44.

<sup>2</sup> Districts 21 and 42.

single-member districts. Without suggesting a result different from that required by the Supreme Court, our analysis indicates that District 45 is not, in and of itself, objectionable. District 31 we found clearly objectionable because the 84,000 blacks in Hinds County are submerged into five districts all of which have a majority white VAP, and in such circumstances, their potential to elect representatives of their choice is not only minimized but effectually cancelled out.

Likewise, most of the single-county multi-member districts<sup>3</sup> were found to be objectionable. Our analysis indicates that although Bolivar (District 14) has a majority black VAP, black voting strength is diluted by requiring the election of representatives at large particularly in the context of the majority vote requirement for primary elections, the numbered post provision, and the full slate requirements. In District 33, the substantial black population concentration located in Natchez and the adjoining portions of northwestern Adams County are submerged into the greater white population of the remainder of the county. Likewise, the black population concentrations in Laurel and Jones County (District 40) is submerged in a significantly greater white concentration throughout the remainder of Jones County thereby reducing their potential impact on the choice of a representative. The black concentrated area of Laurel is geographically divided from the remainder of Laurel by a railroad right of way and the use of a single-member district plan which contains a district in Laurel and adjoining portions of Jones County would avoid dilution of black voting strength in that area.

House Bill 1290 also creates seven multi-county flo-terial districts. Although the use of such flo-terial districts is not *per se* objectionable, it does create serious difficulties, one of which is to substantially increase the deviation from one-man one-vote. See attached Chart 2 for the deviations in these districts.

In addition to deviation difficulties, Districts 25 and 28 significantly dilute black voting strength. District 25

<sup>3</sup> Districts 13, 14, 33 and 40.

combines majority black Noxubee County, which has a population only 3,900 less than the norm for one district, with the much larger white majority counties of Lowndes and Oktibbeha. Southeastern Oktibbeha County, southern Lowndes County, and Kemper County to the south of Noxubee County all have significant black population concentrations sufficient for the establishment of a single-member district with a majority black VAP if combined with Noxubee County.

District 28, likewise, combines majority black Madison County with the much larger and heavily white county of Rankin. Madison County with a majority black VAP elects one of the four representatives and contains 40% of the electorate for the fourth representative, but is substantially under-represented (14.19%) while Rankin County, which elects two representatives and contains 60% of the electorate for the fourth representative, is over represented (7.45%). A single-member district plan would avoid the deviation problems and the dilution problems.

By far the greatest number of the districts established by House Bill 1290 are multi-county, multi-member districts.<sup>4</sup> Districts 3, 9, 24, 30 and 37 all combine majority black counties with majority white counties to create white majority districts. The use of a single-member district plan would avoid this dilution unless they were gerrymandered to divide black population concentrations.

Districts 15, 29 and 34, combine black majority VAP counties with white majority VAP counties resulting in districts with majority white VAPs despite substantial black populations. A single-member district plan would avoid this dilution.

Districts 17 and 32 combine a black majority county with a county with a marginal black majority percentage. Both results in districts with an approximately 50% white VAP thereby reducing the potential voting strength of blacks. When compared to the likely result if single-member districts were used, it becomes apparent that

<sup>4</sup> Districts 2, 3, 8, 9, 15-18, 24, 26, 27, 29, 30, 32, 34, 37-39, 43 and 46.



the use of multi-member districts in these areas has a dilutive effect on black voting strength.

Finally, Districts 39 and 46 are objectionable because of the submergence of a significant black population concentration located entirely within a county (South Hattiesburg in Forrest County and Moss Point in Jackson County) into a large multi-member district. Both South Hattiesburg and Moss Point have sufficient population to meet the norm for a district and both would have substantially greater potential voting strength for blacks than the existent districts. The submergence of these areas in multi-member districts containing two entire counties with a very low overall black population percentage dilutes the potential black voting strength.

The remaining multi-county, multi-member districts are not objectionable.

## STATE MODIFIED PLAN - HOUSE

DISTRICT NO.	DESCRIPTION	TOTAL POP.	% DEVIATION
1	Tipton's County: All Alcorn County ED 1, 3, 4	18,378	+1.12
2	Alcorn County ED 2, 5-14, 19-24, 26, 27	18,006	-0.20
3	Prentiss County SD 1, 3-5	18,113	-0.21
4	Prentiss County SD 1 Alcorn County SD 3, 5, ED 15, 25 Tippah County SD 1, 4, 5, ED 8-10, 14	18,437	+1.45
5	Tippah County SD 3, ED 11-13 Benton County: All Marshall County SD 2, 5	18,521	+1.92
6	Marshall County SD 1, 3, 4	18,184	+0.07
7	DeSoto County SD 2, ED 1-3	18,103	-0.36
8	DeSoto County SD 1 LESS ED 1-3 SD 3-5	17,789	-2.15
9	Tate County: All	18,544	+2.05
10	Quitman County SD 2-5 ED 5-6 Coahoma County SD 1 ED 5-7	18,129	-0.23
11	Coahoma County SD 2, 5, ED 7-8, 22-24, 39-46	18,434	+1.45
12	Coahoma County ED 16-21, 25-38	18,286	+0.63
13	Tunica County: All Quitman County: SD 1 Less ED 5-6 Panola County ED 6-9	18,026	-0.79
14	Panola County ED 1, 3-5, 10-20, 26, 28-31	18,194	+0.13
15	Yalobusha: All Panola ED's 2, 24, 25, 27 SD 4 Lafayette ED 16, 168	18,906	+4.04



16	Lafayette County ED 2, 3, 5, 9-11	18,506	+1.04
17	Lafayette County ED 5, 7, 15, 17, 21, 22 Calhoun County SD 1-3 SD 4: ALL LESS ED 21 SD 5: ALL LESS ED 16 Pontotoc County ED 9, 11, 12	18,273	+0.56
18	Chickasaw County ALL LESS ED 6, 7, 21 Calhoun County ED 16, 21 Lee County ED 39, 43	17,303	-2.02
19	Pontotoc County ALL LESS ED 9, 11, 12 Union County ED 17, 18 Lee County ED 38	18,569	+2.19
20	Union County: ALL LESS ED 17, 18 Lee County ED 2, 5	18,235	+0.35
21	Itawamba County: All Lee County ED 36	18,287	+0.64
22	Lee County SD 2 ED 1, 3, 4, 10-16, 26-29	18,525	+1.95
23	Lee County ED 17-23, 30, 31-35, 37	18,369	+1.03
24	Monroe County SD 4, ED 17 Clay County ED 21, 22, 27, 28 Lowndes County ED 42-45 Oktibbeha County ED 2	17,344	-4.55
25	Monroe County ED 2-8, 11-16, 18 Lee County ED 40-42	17,953	-1.19
26	Monroe County SD 2, 3; ED 1, 9, 10 Lowndes County SD 1	18,339	+0.92
27	Lowndes County Columbus ALL LESS ED 17, 18, 20	17,950	-1.22
28	Lowndes County SD 3, ED 17, 18, 20, 27-32	18,192	+0.11
29	Tallahatchie County ALL LESS ED 17-20 Grenada County ED 3	17,809	-1.99

30	Grenada County SD 1, 3, 4, ED 4	17,548	-3.43
31	Bolivar County SD 1, 3, ED 18-20, 24, 34-35B, 52-53	18,390	+1.30
32	Bolivar County ED 33, 54-57	18,293	+0.77
33	Sunflower County SD 5, SD 4 LESS ED 22; ED 25, 28, 40	18,131	-0.22
34	Leflore County SD 1, 2, 4, 5, ED 35 Tallahatchie County ED 17-20	17,964	-1.14
35	Sunflower County: Remainder LESS ED 22	18,143	-0.16
36	Bolivar County SD 2 LESS ED 24 SD 5, SD 4 LESS 33, 54-57 Sunflower County ED 22 Washington County ED 51, 53-55, 6-7, 9	18,367	+1.07
37	Washington County ED 1-4, 8, 10, 11, 41-42, 48-49, 52, 56-62, 71, 9900	18,031	-0.77
38	Leflore County ED 11-29, 36	18,022	-0.82
39	Carroll County: ALL Leflore County ED 30-34, 37, 38	18,033	-0.75
40	Washington County ED 12-19, 21, 39-40, 43-47	18,321	+0.82
41	Washington County ED 20, 22-38, 50	18,025	-0.81
42	Attala County ALL LESS ED 1-3	18,002	-0.97
43	Montgomery County: ALL Grenada County ED 21 Attala County ED 1-3	17,424	-4.11
44	Issaquena County SD 5 Sharkey County SD 3, ED 1-7 Washington County SD 1, 2, 5 LESS ED 70-71 ED 5	18,538	+2.01
45	Choctaw County: ALL Webster County: ALL	18,487	+1.74
46	Clay County ALL LESS 21, 22, 27, 28 Chickasaw County ED 6, 7, 21	18,150	-0.11

47	Oktibbeha County ED 1, 4-13, 15, 16, 18	18,401	+1.27
48	Winston County: ALL	18,406	+1.29
49	Oktibbeha County SD 4, 5, 3 LESS ED 18; ED 1, 13, 14 Leflore County: SD 1, 5, ED 9 Lawrence County SD 4	17,922	-1.37
50	Monroe County: ALL Monroe County SD 2, 4, ED 4-8	18,326	+0.85
51	Madison County: SD 4 Madison County: ALL Madison County: ED 70 Yazoo County: ED 1, 4, 5, 18	18,667	+2.72
52	Holmes County SD 1-3, 5 Yazoo County ED 2, 3, 31, 32	18,766	+3.27
53	Yazoo County SD 3 LESS ED 18; ED 25, 28-30	18,760	+3.24
54	Issaquena County SD 1-4 Sharkey County SD 1-2 Warren County SD 1, ED 13-14 Warren County SD 5, ED 24, 26, 27	18,921	+4.12
55	Warren County ED 1, SD 2 LESS ED 13-14, SD 4 LESS ED 35	18,249	+0.43
56	Clallaine County SD 2-4, ED 12 Warren County SD 5, ED 35	18,483	+1.71
57	Leake County: ALL Neshoba County ED 19	17,625	-3.00
58	Madison County ED 1, 6-17, 19-23 Yazoo County ED 33	18,550	+2.08
59	Madison County ED 1, 2, 4, 5, 24-34 Rankin County ED 1-3, 15, 16, 26, 27	18,913	+4.08
60	Rankin County ED 4-5, 19, 20, 22-23, 26-34, 36-38	18,438	+1.47
61	Rankin County ED 6-14, 16B-18, 21, 24, 25, 29, 41, 42	18,365	+1.07
62	Scott County: SD 1-4	18,146	-0.14

63	Neshoba County ALL LESS ED 17, 19-22	18,283	+0.52
64	Newton County SD 1, 3, 4 Scott County SD 5 Neshoba County ED 17, 20-22	18,013	-0.16
65	Lauderdale County ED 1, 20-21, 23-26, 38-41, 50-52, 62, 63, 65	18,189	+0.10
66	Lauderdale County ED 11-13B, 15-19, 32-37, 46-49 Newton County SD 2, 5	18,279	+0.59
67	Lauderdale County ED 2-10, 22, 27-31 42-45, 53, 73-75, 77, 78	18,573	+2.24
68	Lauderdale County ED 14, 54, 57-61, 64, 66-72, 76, 79-84	17,627	-2.19
69	Hinds County ED 91-98, 142, 149-152, 194, 196-204	17,791	-2.10
70	Hinds County ED 84, 88-90, 135-141, 143-149, 154, 155, 157	17,913	-1.40
71	Hinds County ED 156, 158-162, 182-192 A. B., 195	17,862	-1.70
72	Hinds County ED 129, 179-181, 192C	17,547	-3.43
73	Hinds County ED 22, 24, 25, 28, 29, 73, 74, 86, 87, 116-123	18,094	-0.36
74	Hinds County ED 21, 23, 26, 27, 30, 31, 33, 34, 36, 37, 40, 63	18,168	-0.01
75	Hinds County ED 71, 72, 110, 112-115, 124-128, 130, 131, 134A,B, 173A and B	18,053	-0.06
76	Hinds County ED 54, 55 ED 99-109, 111, 132, 133, 171, 172	17,481	-3.8
77	Hinds County ED 32, 51, 52, 56-62, 64-70	17,687	-2.70
78	Hinds County ED 13-20, 35, 79-83, 85	18,060	-0.01
79	Hinds County ED 9-12, 23, 39, 41-50, 53, 163-167	17,359	-1.42
80	Hinds County ED 1-8 75-78	18,356	+3.30

BEST COPY AVAILABLE



81	Copiah County SD 4, SD 5 LESS ED 1, 7 ED 15-19, 21-23	17,665	-2.79
82	Copiah County: Remainder Lawrence County SD 2, ED 6-8 Lincoln County SD 2, 5, ED 18	18,177	-0.03
83	Adams County ED 14, 17, 19B Claiborne County SD 1, ED 13 Jefferson County: ALL	17,446	-3.93
84	Franklin County ED 1-8, 12-14 Amite County ED 1-7, 11, 17-19 Lincoln County ED 22-24	17,684	-2.68
85	Lincoln County SD 1 LESS ED 18 SD 3, ED 25	17,316	-4.70
86	Smith County: ALL Jasper County SD 1, 3, ED 1	17,929	-1.33
87	Jasper County SD 4, 5, ED 2 Jones County SD 2 LESS ED 48A-C	17,998	-0.95
88	Clarke County: ALL Wayne County ED 2, 3 Jones County ED 3	17,985	-1.03
89	Jones County SD 4, 5 Wayne County SD 5, ED 4, 5 Greene County ED 3	18,038	-0.73
90	Greene County ALL LESS ED 3 Wayne County SD 1, 2, ED 1	18,125	-0.25
91	Jones County ED 9, 17-19, 23, 24, 29-33 SD 3 LESS ED 3	17,361	-4.45
92	Jones County ED 10-16, 20-22, 25-28, 34-41, 48A-C	18,721	+3.02
93	Simpson County: ALL LESS ED 22, 23	18,484	+1.72
94	Covington County: ALL Jefferson Davis County SD 3 Lamar County ED 1, 2	18,326	+0.35
95	Jefferson Davis County SD 1, 2, 4, 5 Lawrence County ALL LESS 6, 7, 7E, 9, 14, 15	18,035	-0.75

96	Lamar County ED 12, 13 Marion County SD 1, 2, 5	17,618	-3.04
97	Lawrence County SD 3, ED 9 Walthall County ED 8, 9, 13-15 SD 4, 5 Marion County SD 3, 4, ED 18, 22	17,628	-2.99
98	Walthall County ED 6, 7, 10, 11, 12 Pike County SD 1, 3, 5, ED 3, 4, 15, 22-24, 28	17,713	-2.52
99	Pike County ED 5-14, 16-21, 25-27	18,363	+1.06
100	Adams County ED 1-13, 15-16, 31-38	18,244	+0.40
101	Franklin County ED 9-11 Adams County ED 18, 19A, 20-30, 39, 40	17,717	-2.49
102	Wilkinson County: ALL Amite County ED 8-10, 12-16 Adams County ED 41	17,434	-4.05
103	Lamar County SD 4, ED 3, 4 Forrest County ED 1-4, 7-8, 15A, B	17,709	-2.54
104	Forrest County ED 12-14, 16-27	18,103	-0.34
105	Forrest County ED 9-11, 28-38, 40-42, 45	18,015	-0.56
106	Forrest County ED 5-6, 43, 44 SD 4 and 5 Perry County: ALL	18,299	+0.20
107	Lamar County SD 1, 2 Stone County SD 2, ED 8, 10 Pearl River County SD 1-3, ED 15-16	18,582	+2.36
108	Stone County SD 4, 5, ED 6, 7, 9 George County: ALL	18,210	+0.21
109	Pearl River County SD 4: ALL LESS ED 35 SD 5: ALL LESS 15, 16	18,068	-0.57

110	Pearl River County ED 35 Hancock County: ALL	18,073	-0.34
111	Harrison County ED 34, 58-60, 78, 80, 85, 86B, 87A Jackson County SD 1, 5	18,554	+2.11
112	Harrison County ED 44, 44B, 52, 53, 61-77, 79, 81-84, 86A, 87B-94	18,589	+2.30
113	Harrison County ED 29, 38-42, 55-57, 95-102, 107, 111, 129	18,535	+2.00
114	Harrison County ED 30, 45-51, 54, 103-106, 108-110, 112-113, 117-120, 9900	18,555	+2.11
115	Harrison County ED 12-19, 21-24, 31, 32, 36B, 114-116, 128	18,519	+1.92
116	Harrison County ED 1-11, 20, 25-28	18,580	+2.25
117	Harrison County ED 130-160	18,733	+3.09
118	Harrison County ED 33, 35, 36A, 37, 125-127B, 161-171 Jackson County ED 14-16B, 29, 30	18,564	+2.17
119	Jackson County ED 9-13G, 17-28	18,532	+1.59
120	Jackson County ED 8, 31, 31B, 42, 45-47, 51-57, 63-67, 9900	18,946	+4.26
121	Jackson County ED 48-50, 58-62, 68-72	18,523	+1.94
122	Jackson County ED 32-41, 43, 44	17,927	-1.34

## STATE-MODIFIED PLAN - HOUSE

		ANALYSIS		
	DISTRICT	TOTAL	%DEVIATION	%BLACK
	1	18375	+1.12%	3.75%
	2	18006	-0.90%	15.24%
	3	18113	-0.31%	11.85%
	4	18437	+1.46%	7.14%
	5	18521	+1.93%	38.03%
	6	18184	+0.07%	65.0%
	7	18105	-0.36%	20.22%
	8	17780	-2.15%	37.0%
	9	18544	+2.50%	47.2%
	10	18129	-0.23%	61.23%
	11	18434	+1.45%	62.06%
	12	18286	+0.63	59.99%
	13	18026	+0.80	67.76%
	14	18194	+0.13%	57.59%
	15	18906	+4.04%	43.26%
	16	18506	+1.84%	25.36%
	17	18273	+0.56%	21.29%
	18	17803	-2.02%	34.93%
	19	18569	+2.19%	18.62%
	20	18236	+0.35%	19.29%
	21	18287	+0.63%	7.25%
	22	18525	+1.95%	18.88%
	23	18369	+1.08%	18.01%
	24	17344	-4.55%	62.13%
	25	17953	-1.19%	23.94%
	26	18339	+0.92%	15.41%
	27	17950	-1.22%	46.43%
	28	18192	+0.11%	13.34%
	29	17809	-1.99%	56.38%
	30	17548	-3.43%	40.84%



DISTRICT	TOTAL	%DEVIATION	%BLACK	%BLACK VAP
31	18390	+1.20%	77.07%	70.53%
32	18293	+0.67%	41.72%	
33	13131	-0.22%	81.29%	75.71%
34	17964	-1.14%	75.13%	69.99%
35	18143	-0.16%	43.80%	
36	18367	+1.07%	64.21%	54.82%
37	19031	-0.77%	41.21%	
38	18022	-0.82%	35.55%	
39	18033	-0.75%	60.1%	54.24%
40	18321	+0.82%	39.2%	
41	18025	-0.81%	80.77%	74.63%
42	18002	-0.97%	41.4%	
43	17424	-4.11%	40.57%	
44	18538	+2.01%	63.38%	55.70%
45	18487	+1.74%	24.99%	
46	18150	-0.11%	51.41%	45.75%
47	18401	+1.27%	24.38%	
48	18406	+1.29%	39.11%	
49	17922	-1.37%	63.03%	54.03%
50	18326	+0.85%	56.55%	48.76%
51	18667	+2.72%	66.03%	59.27%
52	18766	+3.27%	64.62%	57.78%
53	18760	+3.24%	48.03%	
54	18921	+4.12%	49.32%	
55	18249	+0.43%	58.60%	56.02%
56	18483	+1.71%	27.54%	
57	17625	-3.00%	35.80%	
58	18550	+2.08%	61.48%	55.80%
59	18913	+4.08%	57.54%	53.04%
60	18438	+1.47%	40.88%	
61	18365	-0.14%	7.25%	
62	18146	-0.14%	32.4%	

DISTRICT	TOTAL	%DEVIATION	%BLACK	%BLACK VAP
63	18283	+0.62%	19.04%	
64	18013	-0.86%	29.61%	
65	18189	+0.10%	6.51%	
66	18269	+0.54%	23.0%	
67	18578	+2.24%	53.55%	48.18%
68	17627	-2.99%	29.21%	
69	17791	-2.10%	65.8%	60.8%
70	17913	-1.40%	36.4%	
71	17862	-1.70%	15.4%	
72	17547	-3.43%	0.14%	
73	18094	-3.36%	19.6%	
74	18168	-0.01%	89.98%	84.3%
75	18053	-0.06%	27.3%	
76	17481	-3.80%	77.0%	73.1%
77	17687	-2.70%	80.3%	77.6%
78	18060	-0.61%	43.2%	
79	17959	-1.22%	2.6%	
80	18356	+1.0%	3.3%	
81	17655	-2.79	58.46%	51.68%
82	18177	+0.03%	19.67%	
83	17446	-3.98%	72.11%	68.82%
84	17684	-2.68%	36.66%	
85	17316	-4.70%	31.14%	
86	17929	-1.33%	22.30%	
87	17998	-0.95%	37.98%	
88	17983	-1.03%	31.72%	
89	18038	-0.73%	12.82%	
90	18125	-0.25%	33.99%	
91	17361	-4.45%	55.23%	48.78%
92	18721	+3.02%	3.18%	
93	18484	+1.72%	29.96%	
94	18326	+0.85%	33.14%	
95	18035	-0.75%	47.59%	

<u>DISTRICT</u>	<u>TOTAL</u>	<u>DEVIATION</u>	<u>BLACK</u>	<u>BLACK VAP</u>
96	17618	-3.04%	30.21%	
97	17628	-2.99%	22.00%	
98	17713	-2.52%	46.88%	
99	18363	+1.06%	37.85%	
100	18244	+0.40%	67.80%	64.24%
101	17717	-2.49%	27.09%	
102	17434	-4.07%	65.99%	58.03%
103	17709	-2.71%	4.50%	
104	18108	-0.34%	4.66%	
105	18015	-0.56%	65.20%	60.26%
106	18299	+0.70%	19.56%	
107	18582	+2.26%	17.81%	
108	18569	+2.17%	0.39%	
109	18068	-0.57%	21.40%	
110	18073	-0.50%	13.65%	
111	18554	+2.11%	20.42%	
112	18509	+2.30%	13.51%	
113	18535	+2.00%	37.97%	
114	18555	+2.11%	25.42%	
115	18519	+1.92%	5.78%	
116	18580	+2.25%	4.51%	
117	18733	+3.09%	28.92%	
118	18564	+2.17%	0.39%	
119	18532	+1.99%	5.33%	
120	18946	+4.26%	15.11%	
121	18523	+1.24%	7.06%	
122	17927	-1.34%	39.01%	

# CHART 1

## House Bill 1290

Population ratios and deviation for multi-member and single member districts.

Total Mississippi Population: 2,216,912

Number of Representatives: 122

Mean Population per district:  
(2,216,912 ÷ 122) 18,171

## District (Number Representatives elected)

	<u>Total Pop.</u>	<u>White Pop.</u>	<u>Black Pop.</u>	<u>% Blk</u>	<u>Dev.</u>
1.(3) SubDist A(1)					
Benton	(7,505)	(4,350)	(3,149)	(42.0%)	
Tippah	(15,852)	(13,260)	(2,581)	(16.3%)	
Total	23,357	17,510	5,730	24.5%	*
SubDist B(1)					
Alcorn	27,179	23,951	3,196	11.8%	*
Dist Wide(1)	50,536	42,240	8,296	17.7%	*
2.(2) Prentiss	(20,133)	(17,776)	(2,353)	(11.7%)	
Tishomingo	(14,940)	(14,268)	(663)	(4.4%)	
Total	35,073	32,044	3,016	8.6%	-3.50
3.(3) De Soto	(35,885)	(23,235)	(12,611)	(35.1%)	
Marshall	(24,027)	(9,101)	(14,891)	(62.0%)	
Total	59,912	32,336	27,502	45.9%	+9.9%
4.(5) SubDist A(1)					
Itawamba	16,847	15,882	951	5.6%	*
SubDist B(2)					
Lee	46,148	36,571	9,548	20.7%	*
SubDist C(1)					
Monroe	34,043	23,650	10,382	30.5%	*
Dist Wide(1)	97,038	76,103	20,881	21.5%	*
5.(1) Chickasaw	16,805	10,819	5,976	35.6%	-7.52
6.(1) Pontotoc	17,363	14,254	3,097	17.8%	-4.45



District (Number Representatives Elected)

	<u>Total Pop.</u>	<u>White Pop.</u>	<u>Black Pop.</u>	<u>% Blk</u>	<u>Dev.</u>
7.(1) Union	19,096	16,145	2,944	15.4%	+5.0%
8.(2) <sup>1/</sup> Calhoun	(14,623)	(10,807)	(3,813)	(26.1%)	
Lafayette	(24,181)	(17,313)	(6,705)	(27.7%)	
Total	38,804	28,120	10,518	27.1%	+6.77%
9.(2) <sup>2/</sup> Panola	(25,829)	(13,061)	(13,753)	(51.3%)	
Yalobusha	(11,915)	(7,071)	(4,814)	(40.4%)	
Total	38,744	20,132	18,567	47.9%	+6.60%
10.(1) Tate	18,544	9,777	8,760	47.2%	+2.50%
11.(4) SubDist A(2)					
Coahoma	40,447	14,232	26,013	89.0%	*
SubDist B(1)					
Quitman	(15,888)	(6,687)	(9,120)	(57.4%)	
Tunica	(11,854)	(3,225)	(8,614)	(72.7%)	
Total	27,742	9,912	17,734	63.9%	*
Dist Wide(1)	68,189	24,144	43,747	64.2%	*
12.(1) Tallahatchie	19,338	7,657	11,632	60.2%	+6.42%
13.(2) Sunflower	37,047	13,619	23,261	62.8%	+1.93%
14.(3) Bolivar	49,409	18,750	30,338	61.4%	-9.37%
15.(4) Issaquena	(2,737)	(1,033)	(1,698)	(62.0%)	
Washington	(70,581)	(31,803)	(38,460)	(54.5%)	
Total	73,318	32,836	40,158	54.8%	+0.87%
16.(2) Holmes	(23,120)	(7,345)	(15,743)	(68.1%)	
Humphreys	(14,501)	(5,089)	(9,460)	(64.8%)	
Total	37,721	12,434	25,203	66.8%	+3.79%

1/ One must be resident of Lafayette

2/ One must be resident of Panola

District (Number Representatives Elected)

	<u>Total Pop.</u>	<u>White Pop.</u>	<u>Black Pop.</u>	<u>% Blk</u>	<u>Dev.</u>
17.(3) Carroll	(9,397)	(4,615)	(4,771)	(50.8%)	
Leflore	(42,111)	(17,550)	(24,374)	(57.9%)	
Total	51,508	22,165	29,145	55.5%	-5.52%
18.(2) Grenada	(19,854)	(11,154)	(8,690)	(43.8%)	
Montgomery	(12,918)	(7,121)	(5,787)	(44.8%)	
Total	32,772	18,275	14,477	44.2%	-9.85%
19.(1) Attala	19,570	11,632	7,903	40.4%	+7.55%
20.(1) Winston	18,406	11,065	7,198	39.1%	+1.29%
21.(1) Choctaw	(8,440)	(6,069)	(2,366)	(28.0%)	
Webster	(10,047)	(7,789)	(2,253)	(22.4%)	
Total	18,487	13,858	4,619	25.0%	+1.73%
22.(1) Clay	18,840	9,517	9,306	49.4%	+3.58%
23.(5) SubDist A(2)					
Lowndes	49,700	33,336	16,236	32.7%	*
SubDist B(2) <sup>3/</sup>					
Noxubee	(14,288)	(4,844)	(9,397)	(65.8%)	
Oktibbeha	(28,752)	(18,569)	(10,004)	(34.8%)	
Total	43,040	23,413	19,401	45.1%	*
Dist Wide(1)	92,740	56,749	35,637	38.4%	*
24.(4) <sup>4/</sup> Kemper	(10,233)	(4,488)	(5,612)	(54.8%)	
Lauderdale	(67,087)	(46,186)	(20,630)	(30.8%)	
Total	77,320	50,674	26,242	33.9%	+6.37%

3/ One must be resident of Oktibbeha County.

4/ One must be resident in Kemper and 3 must reside in Lauderdale.

District (Number Representatives Elected)

	<u>Total Pop.</u>	<u>White Pop.</u>	<u>Black Pop.</u>	<u>% Blk</u>	<u>Dev.</u>
25.(3) <u>SubDist A(1)</u>					
Clarke	(15,049)	(9,631)	(5,396)	(35.9%)	
Jasper	(15,996)	(8,564)	(7,416)	(46.4%)	
Total	31,043	18,195	12,812	41.3%	*
<u>SubDist B(1)</u>					
Newton	18,983	13,352	5,187	27.3%	*
Dist Wide(1)	50,026	31,541	17,999	36.0%	*
26.(2) <sup>5/</sup> <u>Leake</u>	(17,085)	(10,452)	(6,091)	(35.7%)	
Neshoba	(20,802)	(15,091)	(4,098)	(19.7%)	
Total	37,887	25,543	10,189	26.9%	+4.25%
27.(2) <u>Scott</u>	(21,369)	(14,254)	(7,053)	(33.0%)	
Smith	(13,561)	(10,609)	(2,088)	(15.4%)	
Total	34,930	24,863	9,141	26.2%	-3.89%
28.(4) <u>SubDist A(1)</u>					
Madison	29,737	11,148	18,548	62.3%	*
<u>SubDist B(2)</u>					
Rankin	43,933	31,529	12,354	28.1%	*
Dist Wide(1)	73,670	42,676	30,902	42.0%	*
29.(2) <sup>6/</sup> <u>Sharkey</u>	(8,937)	(3,125)	(5,784)	(64.7%)	
Yazoo	(27,304)	(12,690)	(14,579)	(53.4%)	
Total	36,241	15,815	20,363	56.2%	-.28%
30.(3) <u>Claiborne</u>	(10,086)	(2,536)	(7,522)	(74.6%)	
Warren	(44,981)	(26,474)	(18,355)	(40.8%)	
Total	55,067	29,010	25,877	47.0%	+1.01%

<sup>5/</sup> One must reside in Leake and 1 must reside in Neshoba.

<sup>6/</sup> One must reside in Yazoo.

District (Number Representatives Elected)

	<u>Total Pop.</u>	<u>White Pop.</u>	<u>Black Pop.</u>	<u>% Blk</u>	<u>Dev.</u>
31.(12) <u>SubDist A(2)</u>					
Super.Dist 1	42,948	30,289	12,695	29.5%	*
<u>SubDist B(2)</u>					
Super.Dist 2	43,061	20,077	22,984	53.4%	*
<u>SubDist C(2)</u>					
Super.Dist 3	43,199	31,237	11,962	27.7%	*
<u>SubDist D(2)</u>					
Super.Dist 4	43,010	29,260	13,750	32.0%	*
<u>SubDist E(2)</u>					
Super.Dist 5	42,755	19,689	23,066	54.0%	*
Dist Wide(2)	214,973	130,592	84,064	39.1%	*
32.(2) <sup>7/</sup> <u>Copiah</u>	(24,749)	(12,298)	(12,437)	(50.3%)	
Jefferson	(9,295)	(2,296)	(6,996)	(75.3%)	
Total	34,044	14,594	19,433	57.1%	-6.33%
33.(2) <u>Adams</u>	37,293	19,366	17,865	47.9%	+2.61%
34.(2) <u>Amite</u>	(13,763)	(6,814)	(6,942)	(50.4%)	
Franklin	(8,011)	(4,697)	(3,109)	(38.8%)	
Wilkinson	(11,099)	(3,588)	(7,499)	(67.6%)	
Total	32,873	15,299	17,550	53.4%	-9.55%
35.(3) <u>SubDist A(1)</u>					
Lincoln	26,198	18,138	8,035	30.7%	*
<u>SubDist B(1)</u>					
Pike	31,756	17,903	13,827	43.5%	*
Dist.Wide(1)	57,954	36,041	21,862	37.7%	*
36.(1) <u>Simpson</u>	19,947	13,678	6,258	31.4%	+9.77%

<sup>7/</sup> One must reside in Copiah.



District (Number Representatives Elected)

	<u>Total Pop.</u>	<u>White Pop.</u>	<u>Black Pop.</u>	<u>% Blk</u>	<u>Dev.</u>
37.(2) Covington	(14,002)	(9,425)	(4,565)	(32.3%)	
Jefferson					
Davis	(12,936)	(6,435)	(6,497)	(50.2%)	
Lawrence	(11,137)	(7,553)	(3,580)	(32.2%)	
Total	38,077	23,415	14,662	38.5%	+4.77%
38.(2) Marion	(22,871)	(15,739)	(7,102)	(31.1%)	
Walthall	(12,500)	(7,403)	(5,088)	(40.7%)	
Total	35,371	23,142	12,190	34.5%	-2.68%
39.(4) Forrest	(57,849)	(43,524)	(14,151)	(24.5%)	
Lamar	(15,209)	(13,187)	(2,013)	(13.2%)	
Total	73,058	56,711	16,164	22.1%	+0.51%
40.(3) Jones	56,357	42,403	13,810	24.5%	+3.38%
41.(1) Wayne	16,650	11,169	5,470	32.9%	-8.38%
42.(1) Greene	(8,545)	(6,662)	(1,878)	(22.0%)	
Perry	(9,065)	(6,074)	(2,385)	(26.3%)	
Total	17,610	12,736	4,264	24.2%	-3.09%
43.(2) <sup>8/</sup> Pearl River	(27,802)	(22,688)	(5,094)	(18.3%)	
Stone	(8,101)	(6,220)	(1,864)	(23.0%)	
Total	35,903	28,908	6,958	19.4%	-1.21%
44.(1) Hancock	17,387	14,894	2,467	14.2%	-4.32%
45.(7) SubDist A(1)					
Super.Dist 1	23,151	17,632	5,451	23.5%	*
SubDist B(1)					
Super.Dist 2	31,480	25,240	6,143	19.5%	*
SubDist C(1)					
Super.Dist 3	17,276	15,511	1,667	9.6%	*

<sup>8/</sup> One must reside in Pearl River.

District (Number Representatives Elected)

	<u>Total Pop.</u>	<u>White Pop.</u>	<u>Black Pop.</u>	<u>% Blk</u>	<u>Dev.</u>
45.(7) SubDist D(1)					
Super.Dist 4	21,082	13,708	7,240	34.3%	*
SubDist E(1)					
Super.Dist 5	41,593	38,970	2,242	5.4%	*
Dist.Wide(2)	134,582	111,061	22,743	16.7%	*
46.(6) <sup>9/</sup> Jackson	(87,975)	(73,547)	(14,258)	(15.2%)	
George	(12,459)	(11,007)	(1,448)	(11.5%)	
Total	100,434	83,554	15,706	15.6%	-7.89%

Total deviation excluding floterial districts: 19.73%

Total number representatives elected from districts with population 50%+ black = 30

<sup>9/</sup> One must reside in George County and one must reside in each of 5 supervisor districts for Jackson.

\* Deviations for these districts are contained in Chart 2.

# CHART 2

House Bill 1290

Deviations for floterial districts 1/

Representation factor per person = .000055 (122 ÷ 2,216,912)

	<u>Total Pop.</u>	<u>Ideal Rep.</u>	<u>No. Rep. Elected</u>	<u>% Dev.</u>
<u>District 1</u>				
Subdistrict A	23,357	1.285	1.462	-13.77%
Subdistrict B	27,179	1.495	1.537	- 2.80%
<u>District 4</u>				
Subdistrict A	15,847	0.927	1.174	-26.64%
Subdistrict B	46,148	2.538	2.476	+ 2.45%
Subdistrict C	34,043	1.872	1.351	+27.84%
<u>District 11</u>				
Subdistrict A	40,447	2.225	2.593	-16.73%
Subdistrict B	27,742	1.526	1.407	+ 7.80%
<u>District 23</u>				
Subdistrict A	49,700	2.734	2.536	+ 7.25%
Subdistrict B	43,040	2.367	2.464	- 4.09%
<u>District 25</u>				
Subdistrict A	31,043	1.708	1.621	+5.09%
Subdistrict B	18,983	1.044	1.379	-32.08%
<u>District 28</u>				
Subdistrict A	29,737	1.636	1.404	+14.19%
Subdistrict B	43,933	2.416	2.596	- 7.45%
<u>District 31</u>				
Subdistrict A	42,948	2.362	2.399	- 1.56%
Subdistrict B	43,061	2.368	2.400	- 1.35%
Subdistrict C	43,199	2.376	2.401	- 1.05%
Subdistrict D	43,010	2.366	2.400	- 1.43%
Subdistrict E	42,755	2.350	2.398	- 2.04%
<u>District 35</u>				
Subdistrict A	26,198	1.441	1.452	- 0.76%
Subdistrict B	31,756	1.747	1.548	+11.4%
<u>District 43</u>				
Subdistrict A	23,151	1.273	1.172	+ 7.84%
Subdistrict B	31,480	1.731	1.234	+23.71%
Subdistrict C	17,276	.950	1.128	-18.78%
Subdistrict D	21,082	1.160	1.157	+ 0.29%
Subdistrict E	41,593	2.288	1.309	+42.79%

Total Deviation including floterial districts = 74.87%

Since floterial districts involve various combinations of subdistricts to elect more than one representative, the deviation must be computed in two steps. The number of representatives elected by a county or sub-district is equivalent the summation of the %'s the subdistrict comprises of the population base for each representative whose election it participates in. For example:

District 1

1. Subdistrict A population 23,357  
÷ Total District 1 Population 50,536 ÷ 0.462

Subdistrict A - No. of Representatives elected:

Subdistrict A = 1  
portion of districtwide rep. = .462  
Total 1.462

2. Number Ideal Representatives:  
Subdistrict A population (23,357) X  
Representation factor per person (.000055) = 1.285

3. Deviation  
Number of Representatives elected ÷ Ideal  
1.462 ÷ 1.285 = +13.77% Dev.



CHART 3

## House Bill 1290

VAP and Registered voter ratios for districts 50%+ Black.

Dist.	(No. Reps.)	(% Pop Black)	Total VAP	Black VAP	% B VAP	Tot Reg Voters	W Reg.* Voters	B Reg.* Voters	% B Reg. Voters
11	Subdist A(2)	(89%)	22,744	13,235	58.2%	16,586	7,321	9,265	55.9%
11	Subdist B(1)	(63.9%)	15,083	8,565	56.8%	11,015	5,019	5,996	54.4%
11	Dist.wide(1)	(64.2%)	37,827	21,800	57.6%	27,601	12,341	15,260	55.3%
12	(1)	(60.2%)	10,808	5,606	51.9%	9,225	5,301	3,924	42.5%
13	(2)	(62.8%)	21,167	11,598	54.8%	15,487	7,368	8,119	52.4%
14	(3)	(61.4%)	<del>22,458</del>	14,778	<del>53.3%</del> 54.9%	20,879	10,534	10,345	49.6%
15	(4)	(54.8%)	41,686	20,583	49.4%	--	--	--	--
16	(2)	(66.8%)	21,632	12,844	59.4%	15,758	6,767	8,991	57.1%
17	(3)	(56.6%)	30,506	15,290	50.1%	22,419	11,716	10,703	47.7%
28	Subdist A(1)	(62.3%)	13,535	7,578	56.0%	9,892	4,587	5,305	53.6%
29	(2)	(56.2%)	20,888	10,359	49.6%	--	--	--	--
31	Subdist B(2)	(53.4%)	25,234	12,598	49.9%	--	--	--	--
	Subdist E(2)	(54.0%)	26,015	12,642	48.6%	--	--	--	--
32	(2)	(57.1%)	70,687	10,356	50.1%	15,204	7,955	7,249	46.7%
34	(2)	(53.4%)	19,902	9,267	46.6%	--	--	--	--

Total Representatives Elected from districts with VAP 50%+ Black = 18

Total Representatives Elected from districts with registered voters 50%+ Black = 9

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\* Computed by multiplying VAP by 77% for whites and 70% for blacks. Figures were chosen on basis of records which indicated that the lowest estimate for % of whites registered was 77% and highest estimate for % of blacks was 70%.



## ANALYSIS OF SENATE BILL 2976

Our analysis of Senate Bill 2976 reveals that both the combination of counties and the use of multi-member and floterial districts resulted in significant dilution of black voting strength. That analysis indicates that such dilution exists in the following districts established by S.B. 2976: Districts 1, 6, 8, 9, 12, 14, 15, 18, 22, 24 and 25. Additionally, districts 4, 7, 10, 16, 17, 20, 27 and 29, which adjoin these objectionable districts well may require alteration in order to correct the objectionable features of S.B. 2976 and our modification to the plan does so. Districts 2, 3, 5, 11, 13, 21, 23, 26, 28, 30, 31, 32 and 33 are left unaffected.

A synopsis of this Department's evaluation of S.B. 2976 can be stated most succinctly by discussing districts in groups according to the various types of districts utilized in S.B. 2976; i.e., single-county single-member districts, multi-county single-member districts, single-county multi-member districts, multi-county multi-member districts, and multi-county floterial districts.

With respect to the single-county single-member districts<sup>1</sup> and the multi-county multi-member floterial districts, District 27, our analysis revealed no basis for objection on Section 5 grounds. However, District 10 (Coahoma County) was not kept intact in our modified plan attached hereto since many of the surrounding districts had to be altered and use of Coahoma County provided a practical contribution to correcting objectionable features in those districts.

Likewise most of the multi-county single-member districts (districts 2, 3, 7, 16, 17, 20, 26, 28, 29 and 31) are unobjectionable. However, the combination of various counties and the use of an entire county as the minimum division for a district results in dilution of black voting strength in several districts by combining a majority black county with a majority white county and by dividing concentrations of black population which transcend county boundaries. This is so in Districts 8,

<sup>1</sup> Districts 5, 10, 13 21 and 23.

9, 14 and 18 with the result that there is no districts with a majority black VAP despite a heavily concentrated black population of approximately 140,000 in this area of the State. Either a regrouping of these counties or the use of enumeration districts as the minimum component for structuring new districts results in districts which meet the norm of 42,634 and avoid the dilution of black voting strength. See Appendix A and accompanying chart.

The 3 single-county multi-member districts created by S.B. 2976, *i.e.*, Hinds (District 22), Harrison (District 32) and Jackson Counties (District 38), are those three counties as to which the Supreme Court has directed the establishment of single-member districts. Without suggesting a result different than that dictated by the Supreme Court, our analysis indicates that significant dilution of black voting strength exists only with regard to Hinds County and, thus, an objection on Section 5 grounds is limited to District 22 in this category.

A survey of Hinds County maps indicate a heavy black population concentration in the center city of Jackson and a less dense, but yet, significant concentration in western Hinds County. Only the submergence of these concentrations in a large multi-member district or an intentional gerrymander would avoid the establishment of at least one, and likely two, districts with a majority black VAP. A single-member district plan which corrects this dilution and which involves only minimal displacement of existing voting precincts is attached.

The greatest number of districts established by S.B. 2976 are multi-county multi-member districts.<sup>2</sup> In addition to the combination of black majority counties with white majority counties and the use of county boundaries as the minimum component for establishing districts, our analysis also involved an evaluation of the numbered post provision, the full slate requirement operable in Mississippi and the size of some districts. An example of the combination of all of these features are

<sup>2</sup> District 1, 4, 6, 11, 12, 15, 19, 24, 25 and 30.

District 24 and 25 which combine five majority black counties by population<sup>3</sup> with four majority white counties by population<sup>4</sup> creating two majority white districts by VAP. District 24 extends  $\frac{1}{2}$  the width of the state.

District 15, although majority black by VAP, is so large (it is approximately four times the size of Hinds County) that effective participation in the seeking of political office as a practical matter is limited to those with the funds extensive enough to cover the area which would, *a fortiori*, fall with heavier weight on black than white candidates. Appendix A provides an acceptable alternative.

<sup>3</sup> Jefferson, Copiah, Claiborne, Amite and Wilkinson.

<sup>4</sup> Adams, Franklin, Lincoln and Simpson.

<sup>5</sup> Consists of Holmes, Issaquena, Madison, Sharkey and Yazoo.



STATE MODIFIED PLAN - SENATE

District	Description	Population	Deviation %
1	Tishomingo County: All Prentiss County: All Itawamba County: SD 1, 2	42192	-1.30
2	Benton County: All Pontotoc County: All Union County: All	43553	+3.11
3	Alcorn County: All Tippah County: All	43031	+0.93
4	Marshall County: All DeSoto County SD 1-7, 14, 15, 23-25, 28 Tate County ED 3, 20, 21	42182	-1.06
5	DeSoto County ED 8-13, 1/2-15, 15B-22, 26, 27 Tate County: Remainder Tunica County: ED 1, 2, 4-9	42338	-0.69
6	Tunica County: Remainder Coahoma County: All less ED 43-46	42684	+0.11
7	Guthrie County: All Coahoma County: ED 43-46 Tallahatchie County: ED 10-19 Panola County ED 1, 3-9, 15-19, 26, 28-31	42532	-0.23
8	Tallahatchie County: Remainder Yalobusha County: All Panola County: Remainder Lafayette County ED 10, 11, 15-17, 22	42483	-0.35
9	Lafayette County: Remainder Calhoun County: All Chickasaw County: SD 1, 2	42553	+0.04
10	Grenada County: All Montgomery County: All Carroll County: All	42169	-1.09
11 (2)	Bolivar County: All Sunflower County: All	86456	+1.39
12	Choctaw County: All Webster County: All Chickasaw County SD 1, 4, ED 17, 19, 20	41120	-3.55
13	LeFlore County: All	42111	-1.23
14	Lowndes County SD 2, 3 ED 2, 5, 6A, 6B	42520	+0.67
15	Lowndes County ED 1, 3, 4 Monroe County SD 1-5, ED 13-15, 18, 27-31 Itawamba County: SD 3-5	40037	-6.16

16	Attala County: All Leake County SD 3, SD 2 less ED 10 SD 1 less ED 2 Neshoba County SD 5, SD 1 less ED 9-12	38684	-9.26
17	Lauderdale County Newton County: All	43904	+2.97
18	Lauderdale County SD 1, 2, 5	43162	+1.23
19	Scott County: All Leake County SD 4, 5 ED 2, 10 Neshoba County SD 2-4, ED 9-12	40642	-4.67
20	Winston County: All Noxubee County: All Kemper County: All	42927	+0.68
21	Rankin County: All	43933	+3.08
22	Claiborne County: All Copiah County: All less SD 2 Jefferson County: All	41086	-3.63
23	Warren County: All	44981	+5.50
24	Simpson County: All Copiah County: SD 2 Lincoln County SD 2-4, ED 19-21 Lawrence County SD 2, 4 ED 8, 14, 17	40665	-4.42
25	Marion County: All Jefferson Davis County: All Lawrence County: SD 3, 5 ED 6, 7	40622	-4.72
26	Pike County: All Walthall County: All	44256	+3.80
27	Amite County: All Wilkinson County: All Adams County ED 6-13, 25, 32, 34-38, 40, 41	41682	-2.23
28	Clarke County: All Jasper County: All Smith County: All	44604	+3.35
29	Adams County: Remainder Franklin County: All Lincoln County: SD 5, ED 5-17	41403	-2.88
30 (2)	Forrest County: All Lamar County: All Stone County: All	81189	-4.82
31	Hancock County: All Pearl River County: All	45119	+5.99
32 (3)	Harrison County: All	134,582	+5.22
33 (2)	Jackson County: All	87975	+3.17

34	Wayne County SD 3-5 Jones County SD 3, SD 1 less ED 1, 4, 38-40	38127	-10.57
35	Covington County: All Jones County: <del>all</del> Remainder	37753	-11.44
36	Greene County: All George County: All Perry County: All Wayne County: SD 1,2	41929	-1.65
37	Madison County: All Yazoo County SD 2, ED 1-3, 5, 9-11, 13-16, 28, 29	43572 <del>43572</del>	+2.43 <del>+2.43</del>
38	Holmes County: All Humphreys County: All Yazoo County ED 6-8, 12, 17, 18	44833	+5.15
39	Issaquena County: All Sharkey County: All Washington County SD 1, 2, 4, 5 ED 41, 59-62 Yazoo County SD 5, ED 19-21, 24-27	43431	+2.83
40	Washington County SD 1 less 41, 59-62	44586	+4.56
41	Hinds County House District 69, 70, 71 less ED 143, 155, 156, 158, 159, 182-185, 192A and B	43019	+0.90
42	Hinds County House District 72, 75 less ED 71, 72, 112-114 plus ED 123, 156 158, 159, 182-185, 192 A and B	43462	+1.94
43	Hinds County House District 74, 76, 77, less ED 21, 23, 26, 37, 40, 51, 52	42798	+0.38
44	Hinds County House District 73 less ED 123 plus ED 13-21, 23, 26, 35, 40, 71, 72, 85	42831	+0.46
45	Hinds County House District 78, 79 ED 37, 51, 52, 79-83	42843	+0.49
46	Chicksaw County: SD 3-5 Clay County: All Oktibbeha County: SD 2, 5, ED 18 Lowndes County: SD 4, 5 Monroe County: ED 16, 17, 33-38	40435	-5.15
47	Lee: All	46148	+8.24

## STATE MODIFIED PLAN - SENATE

District	Total population	% Deviation	% Black	% Black VAP
1	42192	-1.03%	7.32%	
2	43963	+3.11%	20.90%	
3	43031	+0.93%	13.43%	
4	42182	-1.06%	55.43%	49.87%
5	42338	-0.69%	38.81%	
6	42684	+0.11%	63.21%	60.16%
7	42532	-0.23%	63.79%	56.91%
8	42433	-0.35%	46.25%	
9	42653	+0.04%	24.55%	
10	42169	-1.09%	30.64%	
11 (2)	86456	+1.39%	62.00%	54.0%
12	41120	-3.55%	24.77%	
13	42111	-1.23%	57.88%	52.0%
14	42920	+0.67%	29.49%	
15	40007	-6.16%	19.88%	
16	38684	-9.26%	35.9%	
17	43904	+2.97%	26.85%	
18	43162	+1.23%	34.84%	
19	40642	-4.67%	28.18%	
20	42927	+0.68%	51.73%	44.93%
21	43933	+3.08%	28.12%	
22	41006	-3.63%	64.29%	58.73%
23	44981	+5.50%	40.81%	
24	40645 <del>40645</del>	-4.67% <del>-3.89%</del>	28.55% <del>28.55%</del>	
25	40621 <del>40621</del>	-4.00% <del>-4.00%</del>	36.82% <del>36.82%</del>	
26	44256	+3.80%	42.74%	
27	41682	-2.23%	61.09%	55.46%
28	44604	+3.35%	33.41%	
29	41403	-2.88%	33.03%	
30 (2)	81189	-4.82%	22.21%	
31	45189	+5.99%	16.73%	
32 (3)	134,582	+5.22%	16.90%	
33 (2)	87975	+3.17%	16.21%	



District	Total population	% Deviation	% Black	% Black Var
34	38127	-10.57%	28.20%	
35	37753	-11.44%	21.71%	
36	41927	-1.65%	23.04%	
37	43671	+2.34% <del>-1.02%</del>	60.96%	55.18%
38	44833	+5.15%	64.08%	54.77%
39	43841	+2.83%	56.59%	54.10%
40	44586	+4.58%	53.53%	48.01%
41	43019	+0.90%	48.7%	
42	43452	+1.94%	11.45%	
43	42798	+0.38%	83.28%	80.1%
44	42831	+0.46%	42.53%	
45	42843	+0.49%	5.19%	
46	40435	-5.15%	65.41%	54.36%

#### CHART 4

##### Senate Bill 2976

##### Population ratios and deviations.

Total Mississippi Population: 2,216,912

Number of Representatives: 52

Mean Population per district

$$(2,216,912 \div 52) = 42,634$$

Representation factor

$$(52 \div 2,216,912) = .0000234$$

	Total Pop.	White Pop.	Black Pop.	% Blk	Dev.
<u>District 1(2)</u>					
Desoto	(35,885)	(23,235)	(12,611)	(35.14)	
Lafayette	(24,181)	(17,313)	(6,705)	(27.73)	
Marshall	(24,027)	(9,101)	(14,891)	(61.98)	
Total	84,093	49,649	34,207	40.68	-1.38%
<u>District 2(1)</u>					
Benton	(7,505)	(4,350)	(3,149)	(41.96)	
Pontotoc	(17,363)	(14,254)	(3,097)	(17.84)	
Union	(19,096)	(16,145)	(2,944)	(15.42)	
Total	43,963	34,749	9,190	20.90	+3.11%
<u>District 3(1)</u>					
Alcorn	(27,179)	(23,951)	(3,196)	(11.76)	
Tippah	(15,852)	(13,260)	(2,581)	(16.28)	
Total	43,031	37,211	5,777	13.43	+ .93%
<u>District 4(2)</u>					
Itawamba	(16,847)	(15,882)	(951)	(5.64)	
Monroe	(34,043)	(23,650)	(10,382)	(30.50)	
Prentiss	(20,133)	(17,776)	(2,353)	(11.69)	
Pishomingo	(14,940)	(14,268)	(663)	(4.44)	
Total	85,963	71,576	14,349	16.69	+ .82%
<u>District 5(1)</u>					
Lee	46,148	36,571	9,548	5.64	+8.24%
<u>District 6(2)</u>					
Chickasaw	(16,805)	(10,819)	(5,976)	(35.56)	
Clay	(18,840)	(9,517)	(9,306)	(49.39)	
Lowndes	(49,700)	(33,336)	(16,236)	(32.67)	
Total	85,345	53,672	31,518	36.93	+ .09%

	Total Pop.	White Pop.	Black Pop.	% Blk	Dev.
<u>District 7(1)</u>					
Calhoun	(14,623)	(10,807)	(3,813)	(26.08)	
Choctaw	(8,440)	(6,069)	(2,366)	(28.03)	
Montgomery	(12,918)	(7,121)	(5,787)	(44.80)	
Webster	(10,047)	(7,789)	(2,253)	(22.42)	
Total	46,028	31,786	14,219	30.89	+7.96%

<u>District 8(1)</u>					
Panola	(26,829)	(13,061)	(13,753)	(51.26)	
Yalobusha	(11,915)	(7,071)	(4,814)	(40.40)	
Total	38,744	20,132	18,567	47.92	-9.98%

<u>District 9(1)</u>					
Quitman	(15,888)	(6,687)	(9,120)	(57.40)	
Tate	(18,544)	(9,777)	(8,760)	(47.24)	
Tunica	(11,854)	(3,225)	(8,614)	(72.67)	
Total	46,286	19,689	26,494	57.24	+8.57%

<u>District 10(1)</u>					
Coahoma	40,447	14,232	26,013	89.04	-5.13%

<u>District 11(2)</u>					
Bolivar	(49,409)	(18,750)	(30,338)	(61.40)	
Sunflower	(37,047)	(13,619)	(23,261)	(62.79)	
Total	86,456	32,369	53,899	62.00	+1.39%

<u>District 12(2)</u>					
Humphreys	(14,601)	(5,089)	(9,460)	(64.79)	
Washington	(70,581)	(31,803)	(38,460)	(54.49)	
Total	85,182	36,892	47,920	56.26	- .01%

<u>District 13(1)</u>					
Leflore	42,111	17,550	24,374	57.88	-1.23%

<u>District 14(1)</u>					
Grenada	(19,854)	(11,154)	(8,690)	(43.77)	
Tallahatchie	(19,338)	(7,657)	(11,632)	(60.15)	
Total	39,192	18,811	20,322	51.85	-8.07%

<u>District 15(2)</u>					
Holmes	(23,120)	(7,345)	(15,743)	(68.09)	
Issaquena	(2,737)	(1,033)	(1,698)	(62.04)	
Madison	(29,737)	(11,148)	(18,548)	(62.37)	
Sharkey	(8,937)	(3,125)	(5,784)	(64.72)	
Yazoo	(27,304)	(12,690)	(14,579)	(53.40)	
Total	91,835	35,341	56,352	61.36	+7.70%

	Total Pop.	White Pop.	Black Pop.	% Blk .	Dev.
<u>District 16(1)</u>					
Attala	(19,570)	(11,632)	(7,903)	(40.38)	
Carroll	(9,397)	(4,615)	(4,771)	(50.77)	
Leake	(17,085)	(10,452)	(6,091)	(35.65)	
Total	46,052	26,699	18,765	40.75	+8.02%

<u>District 17(1)</u>					
Neshoba	(20,802)	(10,452)	(6,091)	(35.65)	
Winston	(18,406)	(11,065)	(7,198)	(39.11)	
Total	39,208	21,517	13,289	33.89	-8.04%

<u>District 18(1)</u>					
Noxubee	(14,288)	(4,844)	(9,397)	(65.77)	
Oktibbeha	(28,752)	(18,569)	(10,004)	(34.79)	
Total	43,040	23,413	19,401	45.08	+0.95%

<u>District 19(2)</u>					
Kemper	(10,233)	(4,488)	(5,612)	(54.84)	
Lauderdale	(67,087)	(46,186)	(20,630)	(30.75)	
	77,320	50,674	26,242	33.94	-9.32%

<u>District 20(1)</u>					
Newton	(18,983)	(13,352)	(5,187)	(27.32)	
Scott	(21,369)	(14,254)	(7,053)	(33.00)	
Total	40,352	27,606	12,240	30.33	-5.35%

<u>District 21(1)</u>					
Rankin	43,933	31,529	12,354	28.12	-3.08%

<u>District 22(5)</u>					
Hinds	214,973	130,592	84,064	39.10	+0.85%

<u>District 23(1)</u>					
Warren	44,981	26,474	18,355	40.81	+5.50%

<u>District 24(2)</u>					
Claiborne	(10,086)	(2,536)	(7,522)	(74.58)	
Copiah	(24,749)	(12,298)	(12,437)	(50.25)	
Lincoln	(26,198)	(18,138)	(8,035)	(30.67)	
Simpson	(19,947)	(13,678)	(6,258)	(31.37)	
Total	80,980	46,650	34,252	42.30	-5.03%



	<u>Total Pop.</u>	<u>White Pop.</u>	<u>Black Pop.</u>	<u>% Blk</u>	<u>Dev.</u>
<u>District 25(2)</u>					
Adams	(37,293)	(19,366)	(17,865)	(47.90)	
Amite	(13,763)	(6,814)	(6,942)	(50.44)	
Franklin	(8,011)	(4,897)	(3,109)	(38.81)	
Jefferson	(9,295)	(2,246)	(6,996)	(75.26)	
Wilkinson	(11,099)	(3,588)	(7,499)	(67.56)	
Total	79,461	36,911	42,411	53.37	-6.81%

<u>District 26(1)</u>					
Pike	(31,756)	(17,903)	(13,827)	(43.54)	
Walthall	(12,500)	(7,403)	(5,088)	(40.78)	
Total	44,256	25,306	18,915	42.74	+3.80%

<u>District 27(3)</u>					
<u>Subdist. A(1)</u>					
Jones	56,357	42,403	13,810	24.50*	
<u>Subdist. B(1)</u>					
Jeff-Davis	(12,936)	(6,436)	(6,497)	(50.22)	
Covington	(14,002)	(9,426)	(4,565)	(32.60)	
Lawrence	(11,137)	(7,553)	(3,580)	(32.15)	
Marion	(22,871)	(15,739)	(7,102)	(31.05)	*
Total	60,946	39,154	21,744	35.67**	
Districtwide(4)	117,303	81,557	35,554	30.31**	*

<u>District 28(1)</u>					
Clarke	(15,049)	(9,631)	(5,396)	(35.86)	
Jasper	(15,994)	(8,564)	(7,416)	(46.37)	
Smith	(13,561)	(10,609)	(2,088)	(15.40)	
Total	44,604	28,804	14,900	33.41	+3.35%

<u>District 29(1)</u>					
Greene	(8,545)	(6,662)	(1,878)	(21.98)	
George	(13,459)	(11,007)	(1,448)	(11.62)	
Perry	(9,065)	(6,674)	(2,386)	(26.32)	
Wayne	(16,650)	(11,169)	(5,470)	(32.85)	
Total	46,719	35,512	11,182	23.93	+9.58%

<u>District 30(2)</u>					
Forrest	(57,849)	(43,524)	(14,151)	(24.46)	
Lamar	(15,207)	(13,187)	(2,013)	(13.24)	
Stone	(8,101)	(6,220)	(1,864)	(23.01)	
Total	81,189	62,931	18,028	22.21	-4.82%

	<u>Total Pop.</u>	<u>White Pop.</u>	<u>Black Pop.</u>	<u>% Blk</u>	<u>Dev.</u>
<u>District 31(1)</u>					
Hancock	(17,387)	(14,894)	(2,467)	(14.19)	
Pearl River	(27,802)	(22,688)	(5,094)	(18.32)	
Total	45,189	37,582	7,591	16.73	+5.99%

<u>District 32(3)</u>					
Harrison	134,582	111,061	22,743	16.90	+5.22%

<u>District 33(2)</u>					
Jackson	87,975	73,547	14,258	16.21	+3.17%

Total Deviation excluding floterial district = 19.56%

Total Deviation including floterial district = 21.78%

	<u>Total Pop.</u>	<u>Ideal Rep.</u>	<u>No. Rep. Elected</u>	<u>Dev.</u>
Subdistrict A	56,357	1.319	1.480	- 2.20
Subdistrict B	60,946	1.426	1.520	- 6.59

CHART 5

<u>istrict</u>	<u>No.</u> <u>Reps.</u>	<u>% Blk.</u>	<u>Total</u> <u>VAP</u>	<u>Black</u> <u>VAP</u>	<u>% Blk</u> <u>VAP</u>	<u>Total</u> <u>Reg.</u> <u>Voters</u>	<u>White*</u> <u>Reg.</u> <u>Voters</u>	<u>Black*</u> <u>Reg.</u> <u>Voters</u>	<u>% Black</u> <u>Reg.</u> <u>Voters</u>
9	1	57.2%	25,928	12,733	49.1%	--	--	--	--
10	1	89.0%	22,624	13,235	58.5%	16,495	7,230	9,265	56.2%
11	2	62.0%	48,815	26,376	54.0%	35,741	17,278	18,463	51.7%
12	2	56.3%	47,976	24,372	50.8%	35,235	18,175	17,060	48.4%
13	1	57.9%	24,676	12,830	52.0%	18,102	9,121	8,981	49.6%
14	1	51.9%	23,058	10,207	44.3%	--	--	--	--
15	2	61.2%	52,959	29,094	54. %	38,742	18,376	20,366	52.6%
25	2	53.4%			48.0%				

Number Representatives elected from district with VAP 50%+ black = 10

Number Representatives elected from district with registered voters

\* Computed by multiplying VAP by 77% for whites and 70% for blacks. Figures chosen on basis of record which indicated that the lowest estimate for % of whites registered was 77% and highest estimate for % of blacks was 70%.



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Respectfully submitted,

/s/ Michael D. Johnson  
GERALD W. JONES  
MICHAEL D. JOHNSON  
Attorneys  
Department of Justice  
Washington, D.C. 20530

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

June 20, 1975

TRANSCRIPT OF PROCEEDINGS

\* \* \*

[76] BY JUDGE COLEMAN: All right. I want to ask you now if you have ever at any time really articulated in plain language that the average legislator can understand where the defects are in the 1975 Act. In other words, these, if you will read the decisions of the Supreme Court carefully, they condemn dilution in the districts where it occurs. The fact that there is some dilution in Adams County for example doesn't mean you've got to [77] tear up a legislative district and Tishomingo and Alcorn where 90 percent of the people happen to be white anyway. So what I'm asking is have you ever told the legislature, I didn't quite get it from your, what you filed with the Supreme Court although I got a pretty good picture of it, you mentioned for example Marshall County and other counties, you suggested that it ought to be fixed where Marshall county for example could elect one representative on its own, I can't find any quarrel with that, and there are a lot of other things apparently that could be suggested by which the legislature could bring its Act into compliance as to the Fifteenth Amendment. I don't believe you had anything to do with the Fourteenth Amendment, do you, for the enforcement of Fourteenth Amendment rights?

BY MR. JONES: Only insofar as it has Fifteenth Amendment effects.

\* \* \*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

Civil Action Number 3830

[Filed June 25, 1975]

PEGGY J. CONNOR, ET AL., PLAINTIFFS

v.

WILLIAM L. WALLER, GOVERNOR, ET AL., DEFENDANTS

ORDER

Pursuant to the remand of this case by the Supreme Court of the United States on June 9, 1975, this Court held a hearing in Jackson, Mississippi on June 20, 1975, at which the parties, represented by counsel, presented oral argument lasting the entire day. No further evidence was adduced; the parties expressly stipulating in open court that they preferred to stand on the evidentiary record as heretofore developed.

At said hearing, the original plaintiffs and the Department of Justice objected to the composition of certain legislative districts on the ground that they cancel or minimize black voting strength as follows:

A. Objected to by the original plaintiffs:

House Districts numbered 3, 9, 23, 24, 28, 30 and 37;

Senate Districts numbered 1, 8, 16, 18, 19, 24 and 27.

B. Objected to by the Department of Justice:

House Districts numbered 3, 9, 13, 14, 15, 17, 23, 24, 28, 29, 30, 31, 32, 33, 34, 37, 39 and 40.

Senate Districts numbered 1, 6, 8, 14, 15, 18, 19, 22, 24 and 25.



The legal and factual reasons for the asserted unconstitutional dilution of black voting strength in many of the legislative districts are so unclear as to leave the Court with no adequate basis for findings in this regard. This is especially true of the objections asserted by the Department of Justice. Some districts with black population majorities have been objected to, while others in the same category have not been challenged.

Therefore, the Department of Justice is requested, as soon as reasonably possible, to file memoranda with the Court specifically setting forth, *district by district*, the facts of record or of which this Court may take judicial notice, demonstrating the unconstitutional dilution of black voting strength as heretofore asserted by the Department of Justice. The original plaintiffs may file similar memoranda as to the districts to which they have objected, if they so desire.

This Court proposes, where necessary, to alter any legislative district so as to remedy any existing unconstitutional dilution of black voting strength, but more information is required for a judicial determination that the need exists, especially as to a number of districts named by the Department of Justice.

We request particular attention to those districts presently having a black majority population, since not all black population majority districts were objected to.

The requested memoranda need not be addressed to Hinds, Harrison and Jackson Counties as this Court is under a prior mandate from the Supreme Court of the United States concerning legislative districts in these counties.

The parties are hereby formally advised that the Court proposes to formulate a temporary plan for the election of Senators and Representatives for the 1975 election ONLY, the first primary being scheduled by law for August 5, 1975.

We find as a fact that a permanent plan for the reapportionment of legislative districts cannot now be formulated because there is not enough time between now and the August primaries to accomplish the necessary re-registration of voters, personally or adminis-

tratively, nor to geographically realign voting precincts, Mississippi being a permanent registration state in which precinct boundaries (over 2,000 in the state) are fixed by local Board of Supervisors so as to fit within the boundaries of the five Supervisors Districts in each county (52 counties having been reapportioned under the one person-one vote rule since the census of 1970).

By the entry of this order, the parties are judicially informed that this Court proposes without unnecessary delay to formulate a permanent plan for the election of legislators in the quadrennial elections in 1979. When that shall have been accomplished, special elections may be ordered in those legislative districts where required by law, equity, or the Constitution of the United States.

The parties are likewise hereby informed that as to legislative districts altered by the temporary plan for 1975, an adequate period of time will be allowed for the qualification of candidates in the altered districts; however, those already qualified will remain so for the area in which they reside. If necessary, the printing of special ballots for the legislature in the altered districts will be ordered.

The scheduled elections for members of the legislature in 1975 will not be postponed.

#### *Redistricting Jackson County:*

The parties are informed that the Court presently intends in the temporary plan to comply with the mandate of the Supreme Court as to single member districts in Jackson County by taking the following action:

#### *District 46*

Jackson County, one Representative to be elected from each of the five Supervisors Districts.

<u>District 42</u>	<u>Population</u>
Perry County	9,065
Greene County:	
Beats 1, 2, 3 and 5	6,836
Total	15,891

12.6% off the statewide norm.

<u>District 47</u>	
George County	12,459
Beat 4 of Greene County	1,709
Beat 5 of Stone County	1,620
Total	15,788

12.6% off the norm.

This will leave *District 43* as follows:

Pearl River County	27,802
Stone County:	
Beats 1, 2, 3, and 4	6,480
Total	34,282

17,141 population per House Member  
5.7% off the norm.

The Court is of the opinion that this plan is far preferable to creating a single member District of George County alone, which would be 31% off the norm.

The parties are requested to state their objections, if any, to this proposal.

The Court realizes that the above plan geographically fractures Greene and Perry Counties and that this violates the well defined, ancient public policy of the state of Mississippi of preserving the integrity of its county boundaries. We do it in this instance because there appears to be no other way to conform to the Supreme Court mandate. This is temporary only, for the 1975 elections, and is not to serve as a precedent in any other situation, although such fracturing may be unavoidably necessary in certain other instances to comply with the

Fifteenth Amendment and will, where required, be done for that reason.

### *Redistricting Harrison County*

The parties are further advised that because of the absence of any viable alternative, the Court intends to conform as nearly as possible to the Supreme Court mandate as to Harrison County by directing that one Representative shall be elected from each of the five Supervisors Districts and two from the county at large, subject to the possibilities of special election if later, in the course of this litigation, this should be legally mandated.

The three Senators will be elected from Harrison County at large, it being now impossible, for lack of population statistics, to erect three Senatorial Districts of substantially equal size within the county.

If the parties have any valid objections to this temporary measure, they are requested to state them.

### *Redistricting Hinds County*

The parties are informed that the specific method by which Hinds County is to be divided into single member districts as ordered by the Supreme Court is receiving the continuing consideration of the Court, which has come to no resolution thereon, except that as a temporary measure, the five Hinds County Senators will be chosen from single member districts, one from each of the five Supervisor's Districts in the county as recently reapportioned by the United States District Court. Candidates for said seats from said districts shall have until 5 o'clock p.m., C.S.T., Monday, July 7, 1975, in which to qualify as candidates. Those already qualified will remain candidates from the district in which they legally reside as of 5 o'clock p.m., C.S.T., Monday, July 7, 1975.

SO ORDERED by the unanimous direction of the Court, this June 25, 1975.

/s/ Harold Cox  
United States District Judge



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

[Filed Jul. 8, 1975]

Civil Action No. 3830

PEGGY J. CONNOR, ET AL., PLAINTIFFS

—vs—

WILLIAM L. WALLER, ET AL., DEFENDANTS

Order Establishing Certain Temporary Districts  
For The Election of Senators and Representatives  
in the Mississippi Legislature for the Year 1975  
Only

COLEMAN, Circuit Judge:

No useful purpose would now be served by recapitulating the history of the repeatedly unsuccessful efforts of the Legislature and of this Court to reapportion Mississippi legislative districts. Since 1971, those efforts have failed at every turn, and the United States Supreme Court has never had an occasion to judge an entire Mississippi legislative reapportionment on its merits. In any event, as a matter of record, that history is set forth in detail in our recent opinion in this case, *Connor v. Waller*, May 19, 1975, — F.Supp. —.

That opinion went for naught on the ground that House Bill 1290 and Senate Bill 2976 of the Acts of the Mississippi Legislature, Regular Session of 1975, should have been cleared with the Attorney General of the United States under the Voting Rights Act of 1965, as amended. Therefore, our action in deciding the merits of the matter was in error, *Connor v. Waller* (No. 74-1509, June 5, 1975) — U.S. —.

In reversing and remanding the case on June 5, 1975, the Supreme Court said:

"This reversal is, however, without prejudice to the authority of the District Court, if it should become appropriate, to entertain a proceeding to require the conduct of the 1975 elections pursuant to a court-ordered reapportionment plan that complies with this Court's decision in *Mahan v. Howell*, 410 U.S. 315 (1973), *Connor v. Johnson*, 404 U.S. 549 (1972), and *Chapman v. Meier*, — U.S. — (1975)."

Of the three cases thus cited for our future guidance, *Connor v. Johnson*, 404 U.S. 549, was our present case, then making its second appearance before the High Tribunal.<sup>(1)</sup>

The Court ascribed paramount importance to the fact that under our 1971 court-ordered plan 24 of the 122 members of the House of Representatives were elected at large from three large multimember districts, the Counties of Hinds (12), Harrison (7), and Jackson (5). Our judgment was vacated so that these Counties might be subdivided into single-member districts.

The remainder of the plan, however, was vacated for other reasons. Plaintiffs-appellants had contended that deviations from the population norm in the reapportionment of state legislatures were governed by the strict standards of *Kirkpatrick v. Preisler*<sup>(2)</sup> and *Wells v. Rockefeller*.<sup>(3)</sup>

In response to this the Supreme Court said:

"If we are to consider the applicability of *Preisler* and *Wells* to state legislative districts, it would be preferable to have before us a final judgment with respect to the entire State (footnote omitted). To accomplish this result and to preserve the right to

<sup>1</sup> Evidently, the Supreme Court intended to cite *Connor v. Williams* instead of *Connor v. Johnson*, as *Connor v. Williams* is reported at 404 U.S. 549, while an interlocutory appeal, *Connor v. Johnson*, is reported at 402 U.S. 690, 403 U.S. 928.

Our 1967 Plan, applying the 1960 Census, was not appealed.

<sup>2</sup> 394 U.S. 526, 89 S.Ct. 1225, 22 L.Ed.2d 519 (1969).

<sup>3</sup> 394 U.S. 542, 89 S.Ct. 1234, 22 L.Ed.2d 535 (1969).

appeal from such a judgment, the judgment of the District Court is vacated, except insofar as it applied to the 1971 elections, and the case is remanded to the District Court for further proceedings consistent with this opinion."

This became a moot point, of course, when the Supreme Court held that *Preisler* and *Wells* standards do not apply to state legislative reapportionments, *Mahan v. Howell*, 410 U.S. 315, 93 S.Ct. 979, 35 L.Ed.2d 320 (1973). *Mahan* held that state legislative reapportionment is to be judged by the equal protection test enunciated in *Reynolds v. Sims*, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964).

If *Connor* alone had been cited in the Supreme Court remand we would have understood it to be an inflexible command to divide Hinds, Harrison, and Jackson Counties into single-member districts, undoubtedly so as to the House of Representatives.

The Court, quite correctly of course, did not stop there but proceeded specifically to direct our attention to the intervening decisions in *Mahan* (1973) and *Chapman* (1974). This does not mean, as we see it, that the commands of *Connor* are withdrawn but it does mean that our efforts to create a statewide reapportionment plan, temporary or permanent, must also take into consideration the intervening decisions.

*Mahan* did not precede *Connor* in point of time, but it was the first case mentioned in this remand.

We understand *Mahan* to stand for the proposition, as a one person-one vote matter, that in devising a court ordered plan for state legislative reapportionment the federal courts may not disregard an undoubted state policy of maintaining the integrity of traditional county boundaries if population variances are not excessive.

We understand *Chapman v. Meier* to lay down the following principles:

1. In a state traditionally using single-member districts for legislative reapportionment the federal courts should not impose multimember districts, absent particular pressing features calling for such;

2. Unless there are persuasive justifications, a court-ordered reapportionment plan of a state legislature must avoid use of multimember districts and must ordinarily achieve the goal of population equality with little more than *de minimus* variation. Where important and significant state considerations rationally mandate departure from these standards it is the responsibility of the reapportioning court to articulate precisely why a plan of single-member districts with minimal population variance cannot be adopted.

*Chapman* points out that "the preference for and emphasis upon single-member districts in court ordered plans" was reaffirmed in *Mahan v. Howell* but proceeded to point out that when a plan is court-ordered "there often is no state policy of multimember districting which might deserve respect or deference. Indeed, if the court is imposing multimember districts upon a state which always has employed single-member districts, there is special reason to follow the *Connor* rule favoring the latter type of districting". While the Court did not say so, that not being the situation at issue, we hardly see how a federal court would have any more right to deprive a state of its multimember policy in a one person-one vote context, especially where necessary to preserve the integrity of county boundaries.

We do not understand *Chapman* to have in any way modified the basic principles of *Mahan*, especially since *Mahan* is cited with approval for the handling of population divergences "based on legitimate considerations incident to the effectuation of a rational state policy".

Finally, *Chapman* repeated that each case must be evaluated on its own facts. This, we think, negates the accuracy of the argument of the plaintiffs, repeatedly and aggressively pressed, that *Chapman* lays down a *per se* rule that court-ordered legislative reapportionment plans must, without exception, provide for single member districts, regardless of any rational state policy to the contrary.

As the Supreme Court directed, we shall do our best to appropriately apply the teachings of all three cases mentioned in its remand order.



*The County as the Basic Unit of  
State Government*

Since before the admission of Mississippi as the Twentieth State in the American Union, the County has been the sole, inviolate, basic unit of state and local government.

The Act of Congress, passed March 1, 1817, provided that the delegates to the Constitutional Convention called to establish the new state should be elected as follows:

County	Number of Delegates
Warren (Vicksburg)	2
Claiborne	4
Jefferson	4
Adams (Natchez)	8
Franklin	2
Wilkinson	6
Amite	6
Pike	4
Lawrence	2
Marion	2
Hancock	2
Wayne	2
Greene	2
Jackson	2

The Mississippi Legislative Apportionment Act of May 12, 1837, at a time, unhappily, when black people were held in slavery and could not vote, set up 24 multimember districts for the election of Representatives (2 to 4 members per district, none of which fractured county lines). No Senatorial district fractured a county line.

By 1846 the state had 22 multiple member House districts, electing from two to four members each. No county line was fractured. Hutchinson's Mississippi Code of 1848, Pages 377, 378.

The Mississippi Constitutional Convention of 1868, overwhelmingly controlled by the newly liberated slaves and their friends, most of them recent arrivals in Mississippi, provided that twenty-nine counties should elect

anywhere from two to five Representatives per county, Article XI, Mississippi Constitution of 1869, Revised Code of 1871, Page 665.

Section 254 of the Mississippi Constitution of 1890 provided that twenty-five counties should elect two Representatives each and that eleven counties should elect three Representatives each. In the three Representatives group were the preponderantly black counties of Copiah, Holmes, Marshall, Noxubee, Panola, Warren, Washington, Yazoo, and Lowndes. No county line was fractured.

Section 255 of the Mississippi Constitution of 1890 also erected Senatorial districts choosing from two to three Senators. No county line was fractured.

This reapportionment remained in effect until the Mississippi Constitution was amended in 1963 under the impact of *Baker v. Carr*. Multimember districts were continued and no county lines fractured.

Indeed, Section 160 of the Mississippi Constitution of 1890 provided that no existing county boundary might be altered without the consent of a majority of the qualified electors, as follows:

"No new county shall be formed unless a majority of the qualified electors voting in each part of the county or counties proposed to be dismembered and embraced in the new county, shall separately vote therefor; nor shall the boundary of any judicial district in a county be changed, unless, at an election held for that purpose, two-thirds of those voting assent thereto. The elections provided for in this and the section next preceding shall not be held in any county oftener than once in four years. No new county shall contain less than four hundred square miles; nor shall any existing county be reduced below that size.

Section 271 of the Mississippi Constitution of 1890 provided that the Legislature might consolidate existing counties if a majority of the qualified electors of such counties should vote therefor. In 1966, (Chapter 691, Laws of 1966) the people approved a constitutional amendment which would have allowed consolidation (but

not fracturing) of existing counties by a two-thirds vote of the elected members of each House of the Legislature. It appears that this provision has never become operative under Section 5 of the Voting Rights Act of 1965.

The 1962 legislative reapportionment amendments to the 1890 Constitution, approved by the people at the polls, provided that in counties having more than one Representative, the Legislature might *divide such county into districts* for the election of Representatives. Authority to fracture county lines is notably lacking.

As in Virginia (*Mahan v. Howell*, *supra*), Section 89 of the Constitution of 1890 provides for a system of local and private legislation, often used in connection with the local problems of counties and their subdivisions:

"Section 89. There shall be appointed in each house of the legislature a standing committee on local and private legislation; the house committee to consist of seven representatives, and the senate committee of five senators. No local or private bill shall be passed by either house until it shall have been referred to said committee thereof, and shall have been reported back with a recommendation in writing that it do pass, stating affirmatively the reasons therefor, and why the end to be accomplished should not be reached by a general law, or by a proceeding in court; or if the recommendation of the committee be that the bill do not pass, then it shall not pass the house to which it is so reported unless it be voted for by a majority of all members elected thereto. If a bill is passed in conformity to the requirements hereof, other than such as are prohibited in the next section, the courts shall not, because of its local, special, or private nature, refuse to enforce it."

The sum of all this is that from the beginning of Statehood, for 148 years, Mississippi has traditionally, historically, and constitutionally adhered to an unswerving policy of preserving the integrity of county boundaries, of using the county as the sole, basic unit of state government, and as the jurisdiction from which it elected

its legislators. Upon the hearing of this case, counsel for the plaintiffs candidly conceded in open court that they knew of no instance in which Mississippi had departed from this policy.

Under the teachings of *Mahan v. Howell*, recognized in *Chapman v. Meier*, we hold that in the enforcement of the one person-one vote rule (where no racial discrimination in voting is involved) this Court should respect this 148 year old policy and should be lead to breach it for only the most compelling reasons.

As will later be seen in the course of this opinion, we have breached the county boundaries of Greene and Stone Counties. We did this with the greatest reluctance, but at this time there was no other way to divide Jackson County into five single-member districts as the Supreme Court had specifically directed us to do.

We did not wish to so much as appear to disobey a Supreme Court order but our resolution to break up Greene and Stone was an uneasy one because we knew that State policy in this regard had not been presented to the Supreme Court in 1971-72. Moreover, the Supreme Court did not tell us to destroy the integrity of any county boundaries, they told us only to *divide* the *Counties* into single-member districts. In any event, the peculiar geographical location of George County and the population quotients involved appear to give us no other choice. We take note of the written protests from Greene and Stone Counties filed with this Court since our Order of June 25, 1975, but defer consideration thereof until we begin formulation of the permanent plan.

## BACKGROUND

Except in extremely rare instances, Democratic party nominations to a House or Senate seat in the Mississippi Legislature is tantamount to election. Such nominees are rarely opposed in the general election.

The practical effect is that, with few exceptions, Senators and Representatives are elected in the Democratic primaries. The first Democratic primary is scheduled by law for August 5, 1975, with a second primary three



weeks later in those instances where no candidate receives a majority in the first primary. Nomination by majority has been the law in Mississippi since primary elections were first required in 1902.

Surely, the purpose of the one person-one vote rule and of the Voting Rights Act of 1965 is not that voters shall not be allowed to vote at all. We feel that elections should be postponed only for the most cogent reasons. We have determined that no irreparable injury will occur by allowing the 1975 legislative elections to proceed under a temporary plan on the dates provided by law. If the permanent plan, later to be adopted, manifests that the temporary plan has caused such an injury the same will be corrected by special elections as provided by Mississippi law. We think that to halt the elections scheduled for August 5 and August 26 would be a perversion of the electoral process for which no substantial justification appears in the record.

Obviously, in the time available, with the data at hand, and the resources available, this Court cannot possibly hope to devise a permanent districting plan for the election of Senators and Representatives in the Mississippi Legislature. We do believe, however, that we can devise a plan for the 1975 elections, and for those elections only, which substantially will comply, as nearly as reasonably possible, with the one person-one vote rule, and in which black voting power in the various legislative jurisdictions will not be unconstitutionally diluted, minimized, or cancelled.

Thereafter, in due course of events, as speedily as judicially possible, we propose to set up a permanent plan for the election of Senators and Representatives in plenty of time for it to be submitted to the scrutiny of the Supreme Court of the United States and be fully operative far enough in advance of the election year of 1979 in order that the confusion which has reigned rampant this year will not arise to plague voters, candidates, and courts alike. We delayed doing this following the 1972 Supreme Court decision because we sincerely expected the Legislature to formulate a reapportionment. This it did in 1973 and 1975. Since these fell by the way

we can no longer rely on that hope. This is not to say that the Legislature is not as free as it ever was to enact a plan of its own devising.

#### DEVISING THE TEMPORARY PLAN FOR 1975

In this connection, we need to make plain the method by which elections in Mississippi have to be conducted (and have been conducted long before the enactment of the Voting Rights Act of 1965):

(1) From the very beginning of the primary election process, Mississippi has maintained a system of permanent registration of voters. Once a voter registers within the precinct where he lives he need never register again as long as he continues to reside there. Permanent registration records are kept accordingly. At long intervals, Boards of Supervisors in the eighty-two counties, being vested with the jurisdiction to do so, sometimes order a complete new registration of voters so as to eliminate the names of those who have moved or died, the purpose being to update the poll books for more convenient and effective administration. Such a re-registration cannot now be ordered without the consent of the Attorney General of the United States under Section 5 of the Voting Rights Act. The record shows instances in which that Official has objected to such re-registrations because it would put the black voters to the inconvenience of registering again and might thus diminish the black vote.

(2) Since 1817 each County has been divided into five districts (sometimes referred to as Beats). The Board of Supervisors (the governing body of the County), School Board Members, Justice of the Peace, and District Constables are elected from these Beats individually.

(3) It necessarily follows that voting precincts must be established within, and co-extensive with, these five districts; otherwise, there would be no way of electing these locally chosen officials. In other words, if a voting precinct straddled a Beat line, it would be impossible to confine voter registration records to those entitled to vote for Supervisor, School Board Member, Justice of

the Peace, or Constable in any particular Beat and it would be impossible to confine the vote on those officials to the districts they are being elected to serve.

The result is that a voting precinct must be wholly within the same Beat; precincts simply cannot straddle Beat lines. As Rome was not built in a day, so has it required much time to reapportion the counties in Mississippi into five supervisors districts of substantially equal population, *Avery v. Midland County, Texas*, 390 U.S. 474, 88 S.Ct. 1114, — L.Ed.2d —. We judicially notice that under this rule 52 of the 82 counties in Mississippi have been reapportioned since 1970, when the last federal census was taken. It inevitably results that in 52 counties voting precincts have been realigned and permanent registration records amended to conform to the new Beat boundaries. District population figures as reflected by the 1970 Census have been correspondingly altered. In some instances those new figures can be gleaned from federal court orders reapportioning the county, but not always. However, we can assume that the population of the Beat amounts to approximately one-fifth of the total county population in 1970. The difficulty comes when we try to deal with smaller areas within the Beat, covered, as they all are, by existing precincts. At present, there simply is no way to know the population of a voting precinct.

Formerly, the Census Bureau compiled population figures by voting precinct. This the Bureau no longer does. Population by census enumeration districts or by census tracts are of no help in arriving at reapportionment figures by precinct because they rarely coincide with the boundaries of a voting precinct. They did coincide, as we understand it, with existing precinct boundaries in the City of Jackson prior to the city expansions which have occurred since 1970.

The obviously simple solution would be to compile population statistics by precinct, which the Census Bureau formerly did, at least as late as 1920. Possibly the method has been changed to comply with computer procedures. As to this, we are not advised.

In any event, elections in Mississippi have to be conducted by precinct, beat, and county, else the entire procedure would be reduced to inoperable confusion.

It is obviously now too late in the day to undertake a statewide shifting of voting precincts or to take a special census of population by precincts. Consequently, the Beat, or supervisors district, is presently the smallest identifiable unit upon which we can rely in the formulation of a temporary plan.

We must do the best we can with what we have to do with, and this the Court has done, after hundreds of hours of intensive effort on the part of the Judges and their staffs, assisted by such relevant data as the parties have supplied us in usable form.

#### THE PLAN FOR 1975

The first thing we have to do is to reapportion Hinds, Harrison, and Jackson Counties in compliance with the 1972 mandate of the Supreme Court. Then, in other areas where there is no reasonable appearance of a potential for impermissibility diluting black voting strength we shall follow our 1971 plan.

We cannot now follow the various plans offered on behalf of the plaintiffs because they do not conform to existing voting precinct lines, with appropriate population statistics. Legislative districts set up along the lines proposed by the plans would, at this stage, throw the legislative electoral process into indescribable chaos. Where necessary to avoid dilution of black voting strength, however, we shall use Beat population statistics, and in the City of Jackson, Hinds County, we can use precinct population statistics in setting up single member districts for Hinds County.

The original plaintiffs and the Department of Justice have objected to the composition of certain legislative districts, Senate and House, as impermissibly diluting black voting strength. We requested the Department of Justice to articulate its reasons as to each district individually. This has been done, the document setting forth the objections having been received by this Court on July 5, 1975.



The disposition of these objections, district by district, including those raised by the original plaintiffs, will be set forth in a supplemental opinion later to be issued as soon as the contentions can be fully considered. We recognize that this must be accomplished by July 11, if candidates in the newly formed districts are to be allowed ten days in which to qualify, and if the ballots are to be printed in time for the first primary on August 5.

In the meantime, in order that the usual, customary election procedures may move forward, we herewith announce the formulation of those legislative districts, on a temporary basis for the 1975 elections only, as presently reconstituted with reference to the Counties of Hinds, Harrison, and Jackson (and Counties affected thereby) and in those Counties in which no racial dilution objections have been raised.

Qualifying deadlines for Senatorial candidates in the new districts in Hinds County have previously been extended to July 7, 1975. The same deadlines for Senatorial and Representative Districts in Harrison, Jackson, George, Greene, Perry, Stone and Pearl River Counties are now likewise extended until 5 o'clock P.M., CDST, July 14, 1975. Qualifying deadlines will not be extended in the other legislative districts hereinafter named for there has been no territorial change in these districts, although some have been renumbered for the sake of clarity.

#### RECONSTITUTION OF LEGISLATIVE DISTRICTS IN HINDS, HARRISON, AND JACKSON COUNTIES

##### I

##### STATE SENATE

Senatorial District 22.	Hinds County, Supervisor District 1.
Senatorial District 22A.	Hinds County, Supervisor District 2.
Senatorial District 22B.	Hinds County, Supervisor District 3.
Senatorial District 22C.	Hinds County, Supervisor District 4.
Senatorial District 22D.	Hinds County, Supervisor District 5.
Senatorial District 32.	Harrison County, three Senators, to be elected Posts 1, 2, and 3, County-wide.
Senatorial District 33.	Jackson County, two Senators, to be elected Posts 1 and 2, County-wide.

##### II

##### HOUSE OF REPRESENTATIVES

District 46.	Jackson County, Supervisor District 1.
District 46A.	Jackson County, Supervisor District 2.
District 46B.	Jackson County, Supervisor District 3.
District 46C.	Jackson County, Supervisor District 4.
District 46D.	Jackson County, Supervisor District 5.
District 42.	Perry County and Supervisor Districts 1, 2, 3, and 5 of Greene County.
District 47.	George County, Supervisor District 4 of Greene County, and Supervisor District 5 of Stone County.
District 43.	Pearl River County and Supervisor Districts 1, 2, 3, and 4 of Stone County. 2 Representatives, Posts 1 and 2.
District 45.	Harrison County, Supervisor District 1.
District 45A.	Harrison County, Supervisor District 2.
District 45B.	Harrison County, Supervisor District 3.
District 45C.	Harrison County, Supervisor District 4.
District 45D.	Harrison County, Supervisor District 5.
District 45E.	Harrison County, at-large, two Representatives, Posts 1 and 2.

This plan erects twelve single-member House districts where formerly there were three. Harrison County has only recently been redistricted by the United States District Court for the Southern District of Mississippi. We have no available or usable data by which to divide Harrison County into three single Senatorial Districts of substantially equal population while at the same time preserving the viability of the electoral process. The same must be said as to dividing the County into seven single-member districts for the election of Representatives. Consequently, we have gone as far as possible in this temporary arrangement to comply with the directions of the Supreme Court that Harrison County shall be divided into single-member districts. Also, there is no way by which Jackson County, with five supervisor districts, can be divided into two single-member Senatorial districts.

For further explanation, as to population and the fracturing of county boundaries, see our Order of June 25, 1975.

The Department of Justice in a formal statement filed with this Court, advises that it has no objection to the foregoing division of Harrison and Jackson Counties for the election of Representatives.

We hope to divide Hinds County into single member districts for the election of Representatives, or as nearly as possible thereto, which will be announced in a subsequent order.

The Department of Justice and the original plaintiffs object to the election of one Senator from each of the supervisor districts in Hinds County as diluting black voting strength. Hinds County, however, has only recently been reapportioned by a judgment of the United States District Court for the Southern District of Mississippi, in which two of the four supervisor districts are adjudicated to contain a black population majority. By formal order the Fifth Circuit Court of Appeals has declined summary reversal and a stay of this judgment. We, therefore, conclude that until such plan shall be reversed on the merits, we should follow it as the most feasible presently existing method of dividing Hinds County into five Senatorial Districts. Voting precincts have been adjusted to comply with Beat (district) lines, so there will be no confusion in the electoral process.

### III

#### OTHER SENATORIAL DISTRICTS

(For Population Statistics see 330 F.Supp. at 509)

<u>District Number</u>	<u>Counties</u>	<u>Number of Senators</u>
2	Benton, Pontotoc, and Union	1
3	Alcorn and Tippah	1
5	Lee	1
7	Calhoun, Choctaw, Montgomery, and Webster	1

<u>District</u>	<u>Counties</u>	<u>Number of Senators</u>
17	Neshoba and Winston	1
20	Newton and Scott	1
21	Rankin	1
26	Pike and Walthall	1

### IV

#### HOUSE DISTRICTS

<u>District</u>	<u>County or Counties</u>	<u>Number of Representatives</u>
1	Alcorn	1
1A	Benton and Tippah	1
1B	Alcorn, Benton, and Tippah (Floterial District)	1
2	Prentiss and Tishomingo Posts 1 and 2 Post 1 shall be filled by a resident of Prentiss (20,133) Post 2 shall be filled by a resident of Tishomingo (14,940)	2
4	Lee Posts 1 and 2	2
4A	Monroe	1
4B	Itawamba	1
4C	Itawamba, Lee, and Monroe (Floterial District)	1
5	Chickasaw	1
6	Pontotac	1
7	Union	1
10	Tate	1
11	Coahoma Posts 1 and 2	2



District	County or Counties	Number of Representatives
11A	Quitman and Tunica	1
11B	Coahoma, Quitman, and Tunica (Floterial District)	1
12	Tallahatchie	1
13	Sunflower	1
16	Posts 1 and 2	2
	Holmes and Humphreys (The District presently has a Representative who is of the Negro race).	
	Posts 1 and 2	2
19	Attala	1
20	Winston	1
21	Choctaw and Webster	1
22	Clay	1
25	Newton	1
25A	Clarke and Jasper	1
25B	Newton, Clarke, and Jasper (Floterial District)	1
26	Leake and Neshoba	2
	Posts 1 and 2	
	Candidates for Post 1 shall be residents of Neshoba County; those for Post 2 shall be residents of Leake County.	
27	Scott and Smith	2
	Posts 1 and 2	
35	Pike	1
35A	Lincoln	1

District	County or Counties	Number of Representatives
35B	Pike and Lincoln (Floterial District)	1
36	Simpson	1
38	Marion and Walthall	
	Posts 1 and 2	2
41	Wayne	1
44	Hancock	1

Candidates qualified in these Senatorial and House Districts as of the June 5 deadline shall remain so, under the appropriate district designation, the actual method of selection from an area standpoint remaining unchanged from that of 1971.

Of the 42 Representatives to be elected from the above designated Representative Districts, candidates will be required to run in more than two counties in only four instances (floterial districts, required to comply with one person-one vote).

The above Representative district arrangements designate forty-seven single-member districts and nine districts which will elect two members. A rearrangement of the districts by fracturing county lines along Beat lines offers no substantial improvement in population variances. This problem will have further study in the compilation of a permanent plan.

None of the parties to this litigation have objected to any of the districts except the Hinds County Senatorial Districts on the ground that they present a potential for diluting black voting strength. Therefore, at this hour we have included the two member districts as presently unavoidable and have concluded that the composition of these districts should be released now so that orderly election procedures in those areas, now delayed for a month, may go forward.

The within and foregoing shall, as far as it reaches, constitute the Findings of Fact and the Judgment of the Court.

The Clerk of this Court shall forthwith furnish a true copy hereof to the Secretary of State of the State of Mississippi and to each County Registrar in the affected county for the information of those charged with the duty of preparing and distributing the 1975 primary election ballots.

SO ORDERED, ADJUDGED, and DECREED, This 8 day of July, 1975.

/s/ Jas. P. Coleman  
United States Circuit Judge

/s/ Dan M. Russell, Jr.  
Chief United States  
District Judge

/s/ Harold Cox  
United States District Judge

## APPENDIX

Our 1967 Legislative Reapportionment Plan, 265 F. Supp. 499, was not appealed.

After the 1970 Census this Plan had to be revised, *Connor v. Johnson*, 330 F. Supp. 506, 521, because changes in population numbers and shifts in population location had put the 1967 districts out of compliance with the one person-one vote rule.

Between 1960 and 1970 the white population of Mississippi increased by 137,125—from 1,257,546 to 1,394,781. The black population decreased by 99,773—from 915,743 to 815,770. Expressed in round numbers, this represented a white population gain of 10% and a black population loss of 12%. The population norm for the election of both House and Senate Members shifted. For example, Noxubee County, an agricultural area, of preponderantly black population, was entitled to one Representative under the Census of 1960 but it lost 3,620 black people and gained only 120 in white population between 1960 and 1970, so was below the norm for a Representative and had to be combined with other territory.

In 1970 the 410 Supervisor Districts in Mississippi were grossly malapportioned. Fifty-two counties have since been redistricted. This leaves us with no dependable population figures for local county subdivisions, especially as to black population ratios. The accompanying 1970 Census tables reflect the enormity of this problem.



# APPENDIX

The glaring malapportionment of Mississippi Counties as of 1970, since remedied in 52 counties, is shown by the following tables taken from official United States Census reports. From this, also, we may deduce the absolute inaccuracy of the 1970 Beat population figures as they must now stand subsequent to reapportionment. The enormity of the shift in voting precinct boundaries post 1970 is also clear.

Table 33. General Characteristics for County Subdivisions: 1970

(For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text)

County Subdivisions	Total	CHICKASAW	CHOCTAW	CLATSOP	CLARK	CLAY	COAHOMA	COPIAN
ADAMS	12 390	Dist. 1 5 755	Dist. 1 1 578	Dist. 1 5 793	Dist. 1 3 659	Dist. 1 3 498	Dist. 1 1 790	Dist. 1 9 108
Dist. 2 1 073		Dist. 2 2 728	Dist. 2 1 644	Dist. 2 1 277	Dist. 2 3 179	Dist. 2 3 412	Dist. 2 3 604	Dist. 2 3 044
Dist. 3 1 452		Dist. 3 5 779	Dist. 3 1 720	Dist. 3 446	Dist. 3 3 145	Dist. 3 3 480	Dist. 3 3 757	Dist. 3 1 197
Dist. 4 15 074		Dist. 4 1 770	Dist. 4 1 577	Dist. 4 1 528	Dist. 4 2 960	Dist. 4 4 229	Dist. 4 29 085	Dist. 4 1 564
Dist. 5 4 064		Dist. 5 1 773	Dist. 5 2 401	Dist. 5 1 040	Dist. 5 2 704	Dist. 5 3 811	Dist. 5 2 211	Dist. 5 9 636
ALCORN	10 205							
Dist. 1 4 983								
Dist. 2 2 581								
Dist. 3 7 500								
Dist. 4 1 910								
Dist. 5 1 910								
AMITE	3 687							
Dist. 1 1 659								
Dist. 2 4 332								
Dist. 3 2 158								
Dist. 4 1 927								
Dist. 5 1 927								
ATTALA	12 053							
Dist. 1 1 568								
Dist. 2 1 273								
Dist. 3 3 446								
Dist. 4 1 230								
Dist. 5 1 230								
BENTON	1 235							
Dist. 1 1 647								
Dist. 2 2 355								
Dist. 3 763								
Dist. 4 1 505								
Dist. 5 1 505								
BOLIVAR	2 461							
Dist. 1 9 264								
Dist. 2 8 940								
Dist. 3 21 654								
Dist. 4 6 860								
Dist. 5 6 860								
CALHOUN	2 772							
Dist. 1 3 641								
Dist. 2 2 613								
Dist. 3 2 926								
Dist. 4 3 031								
Dist. 5 3 031								
CARROLL	680							
Dist. 1 1 157								
Dist. 2 1 799								
Dist. 3 3 193								
Dist. 4 2 568								
Dist. 5 2 568								

COVINGTON	3 371
Dist. 1 1 470	
Dist. 2 4 179	
Dist. 3 3 126	
Dist. 4 2 836	
Dist. 5 2 836	
DE SOTO	8 378
Dist. 1 14 527	
Dist. 2 3 851	
Dist. 3 2 129	
Dist. 4 7 000	
Dist. 5 7 000	
FORREST	24 992
Dist. 1 9 761	
Dist. 2 17 572	
Dist. 3 1 820	
Dist. 4 1 704	
Dist. 5 1 704	
FRANKLIN	1 471
Dist. 1 1 433	
Dist. 2 1 738	
Dist. 3 1 465	
Dist. 4 1 504	
Dist. 5 1 504	
GEORGE	5 940
Dist. 1 1 980	
Dist. 2 1 514	
Dist. 3 1 835	
Dist. 4 1 170	
Dist. 5 1 170	
GREENE	2 519
Dist. 1 1 324	
Dist. 2 1 540	
Dist. 3 1 220	
Dist. 4 1 942	
Dist. 5 1 942	
GRENADA	15 154
Dist. 1 1 370	
Dist. 2 404	
Dist. 3 1 833	
Dist. 4 1 693	
Dist. 5 1 693	
HANCOCK	1 410
Dist. 1 280	
Dist. 2 1 335	
Dist. 3 2 446	
Dist. 4 11 866	
Dist. 5 11 866	
HARRISON	23 151
Dist. 1 31 490	
Dist. 2 17 776	
Dist. 3 21 052	
Dist. 4 41 593	
Dist. 5 41 593	
HINDS	101 123
Dist. 1 7 182	
Dist. 2 5 346	
Dist. 3 60 454	
Dist. 4 40 858	
Dist. 5 40 858	
HOUMA	7 372
Dist. 1 6 724	
Dist. 2 3 266	
Dist. 3 1 377	
Dist. 4 4 261	
Dist. 5 4 261	
HUMPHREYS	7 116
Dist. 1 2 012	
Dist. 2 1 981	
Dist. 3 779	
Dist. 4 2 713	
Dist. 5 2 713	
ISSAQUEHUA	488
Dist. 1 302	
Dist. 2 339	
Dist. 3 1 021	
Dist. 4 487	
Dist. 5 487	
ITAWAMBA	2 888
Dist. 1 4 231	
Dist. 2 2 650	
Dist. 3 1 115	
Dist. 4 5 763	
Dist. 5 5 763	
JACKSON	4 712
Dist. 1 25 012	
Dist. 2 28 797	
Dist. 3 25 284	
Dist. 4 4 670	
Dist. 5 4 670	

JASPER	2 129
Dist. 1 1 452	
Dist. 2 1 368	
Dist. 3 5 998	
Dist. 4 4 847	
Dist. 5 4 847	
JEFFERSON	939
Dist. 1 1 757	
Dist. 2 4 408	
Dist. 3 1 258	
Dist. 4 853	
Dist. 5 853	
JEFFERSON DAVIS	5 270
Dist. 1 1 512	
Dist. 2 2 780	
Dist. 3 1 581	
Dist. 4 1 793	
Dist. 5 1 793	
JONES	28 908
Dist. 1 7 217	
Dist. 2 7 541	
Dist. 3 8 993	
Dist. 4 3 498	
Dist. 5 3 498	
KEMPER	1 898
Dist. 1 1 579	
Dist. 2 1 774	
Dist. 3 2 191	
Dist. 4 2 791	
Dist. 5 2 791	
LAFAYETTE	3 701
Dist. 1 3 541	
Dist. 2 3 388	
Dist. 3 8 100	
Dist. 4 5 451	
Dist. 5 5 451	
LAMAR	4 046
Dist. 1 3 138	
Dist. 2 1 264	
Dist. 3 3 762	
Dist. 4 2 999	
Dist. 5 2 999	
LAUDERDALE	16 771
Dist. 1 14 686	
Dist. 2 12 418	
Dist. 3 12 503	
Dist. 4 10 709	
Dist. 5 10 709	
LAWRENCE	4 223
Dist. 1 1 314	
Dist. 2 1 817	
Dist. 3 1 592	
Dist. 4 2 191	
Dist. 5 2 191	
LEAKE	2 469
Dist. 1 4 436	
Dist. 2 1 684	
Dist. 3 1 602	
Dist. 4 4 620	
Dist. 5 4 620	
LEE	3 967
Dist. 1 4 031	
Dist. 2 21 426	
Dist. 3 11 434	
Dist. 4 3 290	
Dist. 5 3 290	
LEFLORE	2 536
Dist. 1 2 979	
Dist. 2 27 651	
Dist. 3 5 315	
Dist. 4 3 410	
Dist. 5 3 410	
LINCOLN	14 066
Dist. 1 3 015	
Dist. 2 2 337	
Dist. 3 3 821	
Dist. 4 3 159	
Dist. 5 3 159	
LOWNDES	9 124
Dist. 1 24 849	
Dist. 2 11 293	
Dist. 3 2 221	
Dist. 4 2 213	
Dist. 5 2 213	
MADISON	14 684
Dist. 1 3 393	
Dist. 2 6 491	
Dist. 3 2 780	
Dist. 4 2 389	
Dist. 5 2 389	

<b>MARION</b>	
Dist. 1	7 148
Dist. 2	3 564
Dist. 3	3 719
Dist. 4	2 798
Dist. 5	3 672
<b>MARSHALL</b>	
Dist. 1	9 425
Dist. 2	3 847
Dist. 3	6 011
Dist. 4	2 748
Dist. 5	2 196
<b>MONROE</b>	
Dist. 1	12 173
Dist. 2	2 506
Dist. 3	3 665
Dist. 4	10 133
Dist. 5	5 566
<b>MONTGOMERY</b>	
Dist. 1	7 341
Dist. 2	1 855
Dist. 3	821
Dist. 4	2 293
Dist. 5	588
<b>NESHOSA</b>	
Dist. 1	10 785
Dist. 2	1 733
Dist. 3	2 210
Dist. 4	3 946
Dist. 5	2 128
<b>NEWTON</b>	
Dist. 1	3 442
Dist. 2	3 379
Dist. 3	3 185
Dist. 4	6 184
Dist. 5	2 793
<b>NOXUBEE</b>	
Dist. 1	2 627
Dist. 2	832
Dist. 3	4 976
Dist. 4	2 899
Dist. 5	2 934
<b>OKTUBER</b>	
Dist. 1	19 076
Dist. 2	2 943
Dist. 3	2 482
Dist. 4	1 851
Dist. 5	2 400
<b>PANOLA</b>	
Dist. 1	4 181
Dist. 2	3 261
Dist. 3	4 867
Dist. 4	2 825
Dist. 5	11 695
<b>PEARL RIVER</b>	
Dist. 1	4 547
Dist. 2	1 131
Dist. 3	1 976
Dist. 4	15 316
Dist. 5	4 832
<b>PERRY</b>	
Dist. 1	1 040
Dist. 2	1 419
Dist. 3	3 187
Dist. 4	2 387
Dist. 5	832
<b>PIKE</b>	
Dist. 1	2 269
Dist. 2	8 224
Dist. 3	1 911
Dist. 4	16 476
Dist. 5	2 876
<b>PONTOTOC</b>	
Dist. 1	2 500
Dist. 2	2 944
Dist. 3	3 053
Dist. 4	6 313
Dist. 5	2 453
<b>PRENTISS</b>	
Dist. 1	9 441
Dist. 2	2 020
Dist. 3	3 891
Dist. 4	2 050
Dist. 5	2 731
<b>QUITMAN</b>	
Dist. 1	3 585
Dist. 2	1 279
Dist. 3	5 445
Dist. 4	1 092
Dist. 5	4 487

<b>RANKIN</b>	
Dist. 1	8 336
Dist. 2	27 261
Dist. 3	2 172
Dist. 4	3 736
Dist. 5	2 428
<b>SCOTT</b>	
Dist. 1	7 308
Dist. 2	2 752
Dist. 3	5 674
Dist. 4	2 392
Dist. 5	3 223
<b>SHARKEY</b>	
Dist. 1	225
Dist. 2	1 687
Dist. 3	2 773
Dist. 4	2 298
Dist. 5	1 934
<b>SIMPSON</b>	
Dist. 1	8 746
Dist. 2	4 030
Dist. 3	4 108
Dist. 4	1 572
Dist. 5	1 491
<b>SMITH</b>	
Dist. 1	2 872
Dist. 2	3 207
Dist. 3	2 840
Dist. 4	2 435
Dist. 5	2 207
<b>STONE</b>	
Dist. 1	1 891
Dist. 2	1 124
Dist. 3	2 052
Dist. 4	1 660
Dist. 5	1 374
<b>SUNFLOWER</b>	
Dist. 1	3 247
Dist. 2	5 331
Dist. 3	11 898
Dist. 4	4 347
Dist. 5	12 224
<b>TALLAHATCHIE</b>	
Dist. 1	1 196
Dist. 2	4 606
Dist. 3	2 694
Dist. 4	4 684
Dist. 5	6 078
<b>TATE</b>	
Dist. 1	1 957
Dist. 2	2 459
Dist. 3	4 137
Dist. 4	7 102
Dist. 5	2 889
<b>TIPPAN</b>	
Dist. 1	3 134
Dist. 2	7 042
Dist. 3	2 613
Dist. 4	1 528
Dist. 5	1 535
<b>TISHOMINGO</b>	
Dist. 1	5 007
Dist. 2	2 762
Dist. 3	1 404
Dist. 4	2 070
Dist. 5	3 697
<b>TUNICA</b>	
Dist. 1	1 300
Dist. 2	5 158
Dist. 3	2 038
Dist. 4	1 385
Dist. 5	1 973
<b>UNION</b>	
Dist. 1	1 952
Dist. 2	3 851
Dist. 3	9 744
Dist. 4	2 251
Dist. 5	1 298
<b>WALTHAM</b>	
Dist. 1	1 676
Dist. 2	4 205
Dist. 3	2 653
Dist. 4	1 563
Dist. 5	2 463
<b>WARREN</b>	
Dist. 1	9 827
Dist. 2	7 566
Dist. 3	6 217
Dist. 4	7 539
Dist. 5	13 832

<b>WASHINGTON</b>	
Dist. 1	1 898
Dist. 2	3 428
Dist. 3	47 231
Dist. 4	11 502
Dist. 5	6 522
<b>WAYNE</b>	
Dist. 1	2 956
Dist. 2	6 904
Dist. 3	1 389
Dist. 4	3 018
Dist. 5	2 383
<b>WEBSTER</b>	
Dist. 1	3 993
Dist. 2	915
Dist. 3	1 143
Dist. 4	2 397
Dist. 5	1 399
<b>WILKINSON</b>	
Dist. 1	4 646
Dist. 2	1 243
Dist. 3	3 103
Dist. 4	643
Dist. 5	1 484
<b>WINSTON</b>	
Dist. 1	3 867
Dist. 2	3 954
Dist. 3	3 180
Dist. 4	3 665
Dist. 5	3 740
<b>YALOBUSHA</b>	
Dist. 1	3 128
Dist. 2	2 845
Dist. 3	3 248
Dist. 4	2 054
Dist. 5	638
<b>YAZOO</b>	
Dist. 1	3 408
Dist. 2	3 012
Dist. 3	16 680
Dist. 4	2 753
Dist. 5	1 451

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

[Filed Jul. 11, 1975]

Civil Action No. 3830(A)

PEGGY J. CONNOR, ET AL., PLAINTIFFS

—vs—

WILLIAM L. WALLER, ET AL., DEFENDANTS

Order Establishing Certain Temporary Districts  
For The Election of Senators and Representatives  
in the Mississippi Legislature for the Year 1975  
Only

COLEMAN, Circuit Judge:

This opinion represents a continuation of the efforts of this Court to devise a temporary reapportionment plan for the Mississippi Legislature in time for the holding of the regular 1975 Democratic primaries on August 5 and August 26.

Our prior order of June 25, 1975, and our opinion of July 8, 1975, are included in this opinion by reference.

In the opinion of July 8, 1975, we described the duties imposed upon this Court by the previous remands of the Supreme Court of the United States. We demonstrated the indisputable fact that the County has been, and is, the sole, inviolate, basic unit of state and local government in Mississippi. Incidental thereto, we further demonstrated that no county line in the 158 year history of Mississippi had ever been fractured for the purpose of erecting legislative districts, the uniform policy being to maintain the integrity of county boundaries. We held that in the observance of the one person-one vote rule this Court should respect that policy and should allow only the most compelling reasons to cause a departure from it.

We further demonstrated that from the beginning Mississippi has extensively used multi-member and multi-county legislative districts.

Moreover, we outlined Mississippi's three tiered election machinery (precinct-county-state) which render it impossible at this time and on short notice to re-register voters or realign voting precincts, the unavoidable result being that the 1975 elections will have to be conducted by this existing machinery, or not at all.

We now consider the last remaining issue in this legislative reapportionment situation—the objections raised by the original plaintiffs and by the Department of Justice to the 1971 court-ordered composition of various legislative districts on the ground that they impermissibly cancel, minimize, or dilute black voting strength.

Generally speaking, the two significant factors involved in impermissible dilution of black voting strength are: (1) a purpose to dilute, or (2) *resulting* dilution, even when not caused by a design to produce such a result.

Striving, as we are, for a court-ordered plan, there is no state action. Both the action and the results are court-conceived and court-caused.

When, after extended effort and labor, we formulated the 1971 reapportionment plan, we very deliberately said:

“[W]e have cast to one side any purpose of discrimination or favoritism of any kind.” 330 F.Supp. at 508.

It ought not to have to be said, but we say it nevertheless, that this Court, absolutely, has no intent, purpose, or design to deprive any citizen of the State of Mississippi of the lawful weight of his individual vote, *and certainly not for racial reasons*. The question is thus narrowed to a determination of whether the temporary reapportionment plan to be ordered by us has the effect of diluting black voting strength, judged by appropriate legal standards.

As will be seen hereinafter we are changing some of the 1971 legislative districts for the reasons stated there-  
asto. As to those left unchanged we either find no dilu-

tion or no way to make a change to meet the asserted dilution.

Our former opinion in this case, dated May 19, 1975, — F.Supp. —, found as a fact (reversed on other grounds) that in the electoral processes black citizens are not now suffering from the impact of past discrimination; that they are not hindered, hampered, or in any way impeded in registering to vote, or in voting, for candidates of their individual choice.

We there concluded:

“As a matter of fact, it is obvious that the Voting Rights Act of 1965 has effectually reduced all such racially discriminatory factors to what honestly may be determined an irreducible minimum.”

In the present opinion, we include by reference, all of the facts and considerations set forth in the May 19 opinion negating the presence of racial discrimination in the electoral processes of this State.

At the hearing held in this Court subsequent to the most recent Supreme Court remand we expressly offered the parties an opportunity to submit further evidence on this subject. Including the Department of Justice, they all stated that they preferred to stand on the record as it existed at the time of our prior opinion. No further evidence was offered.

In the light of the foregoing, any possible dilution as to each individual legislative district and any resulting dilution as to the composition of either the House or Senate, as a whole, must be judged on whether, good purpose notwithstanding, the arrangement of the particular district and the state-wide result have the *effect* of dilution.

The standard was recently prescribed by the Supreme Court in *City of Richmond, Virginia v. United States* [No. 74-201, June 24, 1975], — U.S. —: In the newly constituted governmental unit blacks must be afforded the representation reasonably equivalent to their political strength. The test is not what existed before the change, but what prevails after the change.



In *City of Richmond*, the Court said:

"As long as the Ward system fairly reflects the strength of the Negro community as it exists after the annexation we cannot hold, without more specific legislative directions, that such an annexation is nevertheless barred by Section 5."

Moreover, we call attention to the teachings of *Wallace v. House* [No. 74-2654, slip opinion dated July 7, 1975] 5 Cir., 1975, — F.2d —, J. Goldberg:

No racial or political group has a constitutional right to be represented in proportion to its numbers.

No such group is constitutionally entitled to an apportionment structure designed to maximize its political advantage.

The critical question is whether the challenged political system has a demonstrably adverse effect on the political fortunes of a particular group.

Another critical question is whether the effect is invidiously discriminatory, that is, fundamentally unfair.

The existence of a black population majority is not dispositive of the dilution issue, for it is not population but access to the political process that determines whether an interest group enjoys the full vigor of its political rights.

We begin our analysis of the objections filed by the original plaintiffs and by the Department of Justice by identifying the twenty five counties in Mississippi which had a black majority population at the Census of 1970. Then, we shall examine the treatment given these black counties in the reapportionment which we ordered in 1971 and which the Legislature essentially adopted as its own in 1975.

This analysis has been given the most intensive attention, including a lengthy informal conference between the Court and respective counsel on July 7, 1975. In some instances the black population ratio of a particular district might be increased by certain alterations but these alterations would run afoul of the limitations imposed by population norms. An over-all deviation of more than twenty percent, in the absence of the most com-

elling reasons, was prohibited by the Supreme Court, *Chapman v. Meier*, — U.S. —, 95 S.Ct. 751, — L.Ed.2d — (1975).

An added difficulty is that we could not effectively utilize the reapportionment *plans* offered by the plaintiffs and the Department of Justice in a workable manner because they simply cannot be made to conform, at this time, to the requirements of Mississippi registration and voting procedures. Moreover, to a large extent we must say in kindly candor that the objective of these plans, quite clearly, is to *maximize* black voting strength wherever it may be found. These *plans* would fragment the eighty two counties into several hundreds of small pieces, tacked together in a fashion designed, wherever possible, to establish election districts with black majorities. All this, of course, will have to be worked out during the course of the time which will be available when we come to developing a permanent plan.

AN ANALYSIS OF POPULATION CHARACTERISTICS IN MISSISSIPPI  
BLACK POPULATION MAJORITY COUNTIES ACCORDING TO THE 1970  
CENSUS, INCLUDING 1960 COMPARISONS

COUNTY	WHITE 1970	BLACK 1970	BLACK MAJORITY	BLACK LOSS 1960-70	WHITE POPULATION CHANGE, 1960-70
AMITE	6,814	6,942	128	1,548	- 316
BOLIVAR	18,750	30,338	11,588	6,325	+ 1,229
CARROLL	4,615	4,771	156	1,721	- 62
CLAIBORNE	2,536	7,522	4,986	717	- 64
COAHOMA	14,232	26,013	11,781	5,427	- 398
COPIAH	12,298	12,437	139	1,621	- 694
HOLMES	7,345	15,743	8,398	3,745	- 250
HUMPHREYS	5,089	9,460	4,371	3,840	- 669
ISSAQUENA	1,033	1,698	655	701	- 143
JEFFERSON	2,296	6,996	4,700	656	+ 437
JEFFERSON DAVIS	6,433	6,497	62	911	+ 309
KEMPER	4,488	5,612	1,124	1,600	- 340
LEFLORE	17,550	24,374	6,824	5,933	+ 851
MADISON	11,148	18,548	7,400	5,082	+ 1,881
MARSHALL	9,101	14,891	5,790	2,348	+ 1,837
NOXUBEE	4,844	9,397	4,553	3,620	+ 120
PANOLA	13,061	13,753	692	2,463	+ 496
QUITMAN	6,867	9,120	2,253	4,134	- 848
SHARKEY	3,125	5,784	1,659	1,685	- 122

SUNFLOWER	13,619	23,261	9,642	7,594	- 111
TALLAHATCHIE	7,657	11,632	3,975	3,768	- 923
TUNICA	3,225	8,614	5,389	4,701	- 280
WASHINGTON	31,803	38,460	6,657	4,637	- 3,436
WILKINSON	3,588	7,499	3,911	1,929	- 219
YAZOO	12,690	14,579	1,889	4,180	- 172

From the foregoing statistics we conclude  
that there is no reasonable likelihood that the  
following counties presently have a black population  
majority:

County	Black Majority 1970	Black Population Loss 1960-70	White Population Change 1960-70
Amite	128	1,548	- 316
Carroll	156	1,721	- 62
Copiah	139	1,621	- 694
Jefferson Davis	62	911	+ 309
Panola	692	2,463	+ 496

In addition, between 1960 and 1970 the follow-  
ing counties had black population losses amounting to  
nearly as much, or more, than the black population  
majority existing in 1970:



<u>County</u>	<u>Black Population Majority 1970</u>	<u>Black Loss 1960-70</u>
Humphreys	4,371	3,840
Issaquena	655	701
Kemper	1,124	1,600
Quitman	2,253	4,134
Sharkey	1,659	1,685
Tallahatchie	3,975	3,768
Tunica	5,389	4,701
Yazoo	1,889	4,180

For the purpose of this opinion, however, these eight counties will be considered as black majority. The five counties named in the next preceding table no doubt have a high percentage of black population.

Between 1960 and 1970 the Counties of Clay, DeSoto, Jasper, and Tate changed from black population majorities to white.

An Analysis of the Racial Composition  
of the Legislative Districts of which  
the Black Majority Counties Are a Part

(Listed alphabetically)

HOUSE OF REPRESENTATIVES

Amite County

Black majority 128 in 1970.

Amite County is in House District 34, which has an average population of seventeen persons per square mile, hemmed in by the Louisiana boundary on the South and by the Mississippi River on the West.

District 34 is constituted as follows:

<u>County</u>	<u>White</u>	<u>Black</u>	<u>Total</u>
Amite	6814	6949	13,763
Franklin	4837	3174	8,011
Wilkinson	<u>3588</u>	<u>7511</u>	<u>11,099</u>
	15,239	17,634	32,873

Two Representatives, 16,436 per member.

Black voting age population 46.6%, although the total black population is 53.4% .

*Bolivar County*

District 14. Black population majority 11,588. Black voting age population 51.9%. Elects three Representatives. The Department of Justice says that this County could be divided into three single-member districts in such a fashion as to improve the chances of electing a black representative, but for lack of adequate data conforming to precinct lines this cannot now be done. The Court expects to give the division of Bolivar County further study for the permanent plan.

*Carroll County*

District 17. Black population majority 156. Has approximately half enough people for one Representative. May no longer be a black majority county. Strong ties with Leflore County, black population majority 6,824. Carroll is combined with that County for the election of three Representatives. The district has black voting age population of 50.1%. With appropriate data the district should be susceptible to division, reducing its three member status.

*Claiborne County*

District 30. Black population majority 4,986. Has a little more than half enough people for one Representative. Adjacent to the Mississippi River. Claiborne is combined with Warren County, which has 41% black population.

<u>County</u>	<u>White</u>	<u>Black</u>	<u>Total</u>
Claiborne	2,536	7,511	10,058
Warren	26,010	18,355	44,365
	<u>28,546</u>	<u>25,877</u>	<u>54,423</u>

Claiborne might be joined with some identifiable portion of Warren County for a single-member district. However, by order of a three-judge court in a reapportionment case, Warren County presently has no validly existing Supervisor Beats. District 30 elects three Representatives.



*Coahoma County*

District 11. Black population majority 11,781. Elects two Representatives and participates in the election of a Floater with Quitman and Tunica, black majority counties. The Department of Justice does not object to this district. This area presents a reasonable opportunity for division into single-member districts.

*Copiah County*

District 32. Black population majority 139. Has 6,564 more than enough people to elect one Representative. Joined with Jefferson County for the election of two Representatives.

County	White	Black	Total
Copiah	12,298	12,437	24,735
Jefferson	2,296	6,996	9,292
	14,594	19,433	34,027

Black majority district-wide is 4,839. Elects two Representatives, one of whom must be a resident of Copiah County. District black voting age population 50.1%.

*Holmes County*

District 16. Black population majority 8,398. Joined with Humphreys County, black population majority 4,371, for the election of two Representatives, one of whom is black. Department of Justice does not object.

County	White	Black	Total
Holmes	7,345	15,743	23,088
Humphreys	5,089	9,460	14,549
	12,434	25,203	37,637

*Humphreys County*

See Holmes County, immediately above.

*Issaquena County*

District 15. Has 2,737 people, one-seventh of the number required for a Representative. Black majority 655.

Joined with Washington County, which has a black majority of 6,657. Elects four Representatives. See Washington, below.

*Jefferson County*

See Copiah County, *supra*.

*Jefferson Davis County*

District 37. County had black majority of 62 as of 1970. Adjacent to no black majority county. Has 12,396 people, two-thirds enough for one Representative. Joined with white majority counties of Covington and Lawrence for the election of two Representatives. Because of the population norm cannot be joined to another county for the election of one Representative. The Department of Justice suggests that the county boundaries of Covington and Lawrence should be fractured to tailor a heavier black population.

*Kemper County*

District 24. Has approximately half enough people to elect one Representative. Black majority 1,124. For a discussion of the situation in which this County finds itself, see below.

*Leflore County*

See Carroll County, above.

*Madison County*

Like Marshall County, Madison County, presently in District 28, is joined with a much larger County, Rankin, but for the election of four Representatives.

County	White	Black	Total
Madison	11,148	18,548	29,696
Rankin	31,529	12,354	43,883
	42,677	30,902	73,579

Obviously, it may reasonably be argued that there is a potential for dilution in this combination. Without now finally deciding the issue of whether county lines may generally be fractured in Mississippi, a question we re-

serve for the formulation of the permanent plan, we shall order for the 1975 elections that District 28 be rearranged as follows:

District 28.	Madison County, Beats 1, 4, and 5. One Representative.
District 28A.	Madison County, Beats 2 and 3. Rankin County, Beat 2. One Representative.
District 28B.	Rankin County, Beats 1, 3, 4, and 5. Two Representatives. Posts 1 and 2.

#### *Marshall County*

District 3. Marshall County has 24,027 people. This is 5,856 more than enough to elect one Representative. The County has a black majority of 5,790. It is presently joined with much larger DeSoto, a white majority county, for the election of three Representatives at large.

	White	Black
Marshall	9,101	14,891
DeSoto	23,235	12,611
	<hr/> 32,336	<hr/> 27,502

Since Marshall County is entitled to elect one Representative, is a black majority County, and is submerged with a much larger white majority county for the election of Representatives at large, it is obvious that its power to elect one Representative from a black majority county has been diluted.

This District will be reconstituted as follows:

District 3.	DeSoto County, one Representative
District 3A.	Marshall County, one Representative
District 3B.	DeSoto and Marshall (Floterial District) one Representative.

#### *Noxubee County*

District 23. See discussion below.

#### *Panola County*

District 9. Black majority 692 in 1970. As shown above, Panola County is now most likely a white majority county. The present legislative districting with Yalobusha, a white majority county, required that one of the Representatives be a resident of Panola County and permits the second one to be from that County also. Unlike Marshall County, Panola has not been joined with a larger county. Panola County has 26,829 people. Yalobusha has 11,915. In the first primary for the election of State and County officers in 1971, Panola County polled 8,901 votes while Yalobusha County polled 5,338. There is no real potential for invidious dilution of black voting strength in this combination of counties.

#### *Quitman County*

District 11. Black majority 2,253. See Coahoma County, above. Joins Tunica for the election of one Representative and participates in the election of a Floater.

#### *Sharkey County*

District 29. Black majority 1,659. Joined with Yazoo, black majority 1,889, for the election of two Representatives. District has 49.8% black voting age population.

#### *Sunflower County*

District 13. Black majority 9,642. Elects two Representatives. The Department of Justice does not object to this district for racial voting strength dilution.

#### *Tallahatchie County*

District 12. Black majority 3,975. Elects one Representative.



*Tunica County*

District 11. Population 11,839. Black majority 5,389. Combined in a black majority district for the election of one Representative with Quitman and with Coahoma and Quitman for the election of a Floater.

*Washington County*

District 15. Black majority 6,657. Joined with Issaquena County (population 2,737, formerly a part of Washington) for four Representatives. In the formulation of a permanent plan, with adequate data, this district should include some, if not all, single-member districts. This, however, will result in some white majority districts. The black voting age population of this district is 49.4%.

*Yazoo County*

District 29. Black majority 1,889. Included with Sharkey County in a black majority district. See Sharkey County, above.

*Kemper and Noxubee Counties*

The proper slot for the reapportionment of these Counties has given the Court much concern. After much effort, our hope of adjusting these counties has, for the time being, accomplished nothing. These are the only two black majority counties in East Mississippi. On its South side Noxubee joins Kemper. On their East sides both Counties join Alabama.

Noxubee County in 1970 had 14,288 people, of whom 9,397 were black. From 1890 to 1963 it had three Representatives, three times its share under one person-one vote. From 1963 to 1972 it had one Representative. After 1972, due to the loss of 3,620 black people and a white gain of only 120, it fell to two-thirds of one Representative. It now has only one-third of the population for a Senator. The necessity for combining it with other territory is obvious.

From 1890 to 1963, Kemper County had two Representatives. In 1967 it was combined with Neshoba County for the election of two Representatives. After it lost 1,600 black people and 340 whites between 1960 and 1970, this arrangement would no longer meet the re-

quired norms, so something else had to be done. Kemper now has a little more than half enough people to elect a Representative. The combined population of Kemper and Noxubee is:

Kemper	10,233
Noxubee	14,288

This is 13.5% above the population norm and, in relation to norms elsewhere, these Counties may not be consolidated in one district. Such a shift would also cause serious distortions elsewhere.

Noxubee County is now combined with Oktibbeha County for the election of a Senator and for the election of two Representatives. As to the election of a Representative, this is not satisfactory because Oktibbeha County has 28,752 people, twice that of Noxubee. Noxubee is 65.77% black, Oktibbeha is 65.21% white.

Kemper County is 54.84% black and is combined in a four Representative district with Lauderdale, with one of the four being required to be a resident of Kemper. The size of this district must be reduced.

The legislative district status of these two geographically isolated black counties was the subject of extended discussion in the informal court-counsel conference of July 7, 1975. The Court, of its own motion, had conducted an intensive investigation in an effort to better adjust the situation by fracturing county lines in Oktibbeha, Lowndes, and Lauderdale Counties. This proved fruitless because of impermissible distortion of population norms. All possible alternatives were discussed in the conference. No presently viable plan was suggested.

We have concluded that there are no presently viable answers to this peculiar situation, so we leave it as it is, with top priority when we come to consider the permanent plan. The only answer we now see is to take a census of the population of the voting precincts in Southern Oktibbeha, Southwestern Lowndes, and Northern Lauderdale Counties, from which the solution of the Kemper-Noxubee situation can be worked out. This can be had from the Department of Census and we have no doubt that, to resolve this presently insoluble situation, the Legislature would be willing to finance it. The Depart-

ment of Justice is hereby requested to ascertain the cost of such a census and to report to this Court.

The remaining objections raised as to *white majority areas* which conceivably could be carved up so as to encompass isolated instances of heavy black population are not well taken. This approach would be a racially motivated gerrymander. Some of these areas, however, quite obviously can be divided into single-member districts within the same county or with a minimum fracturing of county boundaries, without sacrificing the essential elements of a viable legislative district. This is a task awaiting court and counsel alike.

In resolving this reapportionment tangle, it should not be overlooked that according to the 1970 Census 67% of the white population of Mississippi are of voting age while only 53% of the blacks are eighteen years of age or older. This 14% differential in racial voting age patterns tends, of course, to distort conventional racial voting age statistics. In any event, one person-one vote reapportionment procedures count people, not just "voting age" people.

The above analysis demonstrates, however, that under the temporary plan no black majority county has been combined for the election of Representatives with a larger County containing a white population majority except in those rare instances where realities place a remedy presently out of reach.

#### OBJECTIONS TO THE SENATE PLAN

The population norm for a Senate District is 42,633, more than twice that of a House District. This, of course, narrows the geographical options.

##### *District 1*

	White	Black
DeSoto	23,235	12,611
Marshall	9,101	14,981
Lafayette	17,313	6,705
	<u>49,649</u>	<u>34,297</u>

Marshall County adjoins Tennessee. So does DeSoto. Lafayette is the first county south of Marshall. Marshall County has a little more than one half the people required for a Senator. Its location in this district is rationally dictated by geography.

##### *District 6*

This is a three county district, but none of the three is a black majority county.

##### *District 8*

The objections to District 8 are controlled by the considerations appearing heretofore in our discussion of the Panola-Yalobusha Representatives district.

##### *District 9*

	White	Black
Quitman	6,867	9,120
Tate	9,777	8,760
Tunica	3,225	8,614
	<u>19,869</u>	<u>26,494</u>

##### *District 10*

Coahoma	14,232	26,013
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##### *District 11*

Bolivar	18,750	30,338
Sunflower	13,619	23,261
	<u>32,369</u>	<u>53,599</u>

##### *District 12*

Humphreys	5,089	9,460
Washington	31,803	38,460
	<u>36,892</u>	<u>47,920</u>



*District 13*

Leflore	17,550	24,374
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*District 14*

Grenada	11,154	8,690
Tallahatchie	7,657	11,632

	18,811	20,322
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*District 15*

Holmes	7,345	15,743
Issaquena	1,033	1,698
Madison	11,148	18,548
Sharkey	3,125	5,784
Yazoo	12,690	14,579

	35,341	56,352
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This district elects two Senators. The population variations between the various counties are such that the counties cannot be divided into two districts and stay within permissible norms.

*District 16*

Carroll County is the only black majority county in this three county district and the majority is only 156. Carroll County has only one-fourth of the population required to elect a Senator.

*Districts 18 and 19*

Noxubee and Oktibbeha Counties have been discussed in connection with the House of Representatives, as have Kemper and Lauderdale Counties.

*District 23*

Warren County elects one Senator.

*District 24*

	White	Black
Claiborne	2,536	7,522
Copiah	12,298	12,437
Lincoln	26,198	18,138
Simpson	19,947	13,678
	60,979	51,775

The two black majority counties in this district, Claiborne and Copiah, have 7,000 too few people for a Senator. However, they are combined for the election of two Representatives.

*District 25*

	White	Black
Adams	19,366	17,927
Amite	6,814	6,949
Franklin	4,837	3,174
Jefferson	2,296	6,999
Wilkinson	3,588	7,511
	36,901	42,560

This black majority district elects two Senators. We see no racial dilution here, certainly not enough danger of it to justify altering the district within less than thirty days of the election.

*Effects of the Temporary Plan, Statewide*

For a general discussion of this factor see our prior opinion dated May 19, 1975. The 1970 population of Mississippi was 63.4% white and 36.9% black.

Under the temporary plan now being ordered into effect for the 1975 elections, fourteen Senators (26%) will be elected from districts having a black population majority.

Thirty Representatives (25%) will be elected from House districts having a black population majority.

In addition not less than 13 Senators and 46 Representatives will be elected from districts containing a black population ranging from 36 to 50%.

Seventy six of the 122 House members and 27 of the 52 Senate members will thus be chosen from districts having a black population of 36% or more.

Decree

In the light of the foregoing it is hereby ordered, adjudged, and decreed that members of the House of Representatives and the Senate of the State of Mississippi shall be elected in the regular quadrennial elections in the year 1975 only, as follows, to-wit:

Mississippi State Senate

<u>District Number</u>	<u>County or Counties</u>	<u>Number of Senators</u>
1	DeSoto, Lafayette and Marshall	2
2	Benton, Pontotoc, and Union	1
3	Alcorn and Tippah	1
4	Itawamba, Monroe, Prentiss, and Tishomingo	2
5	Lee	1
6	Chickasaw, Clay and Lowndes	2
7	Calhoun, Choctaw, Montgomery and Webster	1
8	Panola and Yalobusha	1
9	Quitman, Tate and Tunica	1

10	Coahoma	1
11	Bolivar and Sunflower	2
12	Humphreys and Washington	2
13	Leflore	1
14	Grenada and Tallahatchie	1
15	Holmes, Issaquena, Madison, Sharkey and Yazoo	2
16	Attala, Carroll and Leake	1
17	Neshoba and Winston	1
18	Noxubee and Oktibbeha	1
19	Kemper and Lauderdale	2
20	Newton and Scott	1
21	Rankin	1
22	Hinds County Supervisor District 1	1
22 A	Hinds County Supervisor District 2	1
22 B	Hinds County Supervisor District 3	1
22 C	Hinds County Supervisor District 4	1
22 D	Hinds County Supervisor District 5	1
23	Warren	1
24	Claiborne, Copiah, Lincoln and Simpson	2



25	Adams, Amite, Franklin, Jefferson and Wilkinson	2
26	Pike and Walthall	1
27	Jones	1
27 A	Covington, Jefferson Davis, Lawrence and Marion	1
27 B	Covington, Jefferson Davis, Jones, Lawrence and Marion (Floterial District)	1
28	Clarke, Jasper and Smith	1
29	George, Greene, Perry and Wayne	1
30	Forrest, Lamar and Stone	2
31	Hancock and Pearl River	1
32	Harrison	3
33	Jackson	2

# House of Representatives

<u>District Number</u>	<u>County or Counties</u>	<u>Number of Representatives</u>
1	Alcorn	1
1 A	Benton and Tippah	1
1 B	Alcorn, Benton and Tippah (Floater District)	1
2	Prentiss and Tishomingo	2
	Post 1 shall be filled by a resident of one county, while Post 2 shall be filled by a resident of the other county.	
3	DeSoto	1
3 A	Marshall	1
3 B	DeSoto and Marshall (Floater District)	1
4	Lee Posts 1 and 2	2
4 A	Monroe	1
4 B	Itawamba	1
4 C	Itawamba, Lee and Monroe	1
5	Chickasaw	1
6	Pontotoc	1
7	Union	1

8	Calhoun and Lafayette	2
	Posts 1 and 2	
	Post 1 shall be filled by a resident of Lafayette County.	
9	Panola and Yalobusha	2
	Posts 1 and 2.	
	Post 1 shall be filled by a resident of Panola.	
10	Tate	1
11	Coahoma	2
	Posts 1 and 2	
11 A	Quitman and Tunica	1
11 B	Coahoma, Quitman and Tunica	1
12	Tallahatchie	1
13	Sunflower	2
	Posts 1 and 2	
14	Bolivar	3
15	Issaquena and Washington	4
16	Holmes and Humphreys	2
17	Carroll and Leflore	3
18	Grenada and Montgomery	2
19	Attala	1
20	Winston	1

21	Choctaw and Webster	1
22	Clay	1
23	Lowndes	
	Posts 1 and 2	2
23 A	Oktibbeha and Noxubee	2
	Posts 1 and 2	
	Post 1 shall be filled by a resident of Oktibbeha.	
23 B	Lowndes, Noxubee and Oktibbeha, Floater District	1
24	Kemper and Lauderdale	4
	Posts 1, 2, 3, and 4	
	Post 4 shall be filled by a resident of Kemper County.	
25	Newton	1
25 A	Clarke and Jasper	1
25 B	Newton, Clarke and Jasper (Floterial District)	
26	Leake and Neshoba	2
	Posts 1 and 2	
	Post 1 shall be filled by a resident of Neshoba;	
	Post 2 shall be filled by a resident of Leake.	
27	Scott and Smith	2
	Posts 1 and 2	
	Post 1 shall be filled by a resident of Scott,	
	Post 2 shall be filled by a resident of Smith.	
28	Madison County	
	Beats 1, 4, and 5	1



28 A	Madison County, Beats*2 and 3	
	Rankin County, Beat 2	1
28 B	Rankin County, Beats 1, 3, 4, and 5	2
	Posts 1 and 2	
29	Sharkey and Yazoo	2
	Posts 1 and 2	
	Post 1 shall be filled by a resident of Yazoo.	
30	Claiborne and Warren	3
	Posts 1, 2 and 3	
	Hinds County is divided into 12 single member districts, as follows:	
31	Precincts 17, 35-38, 42-45, Twin Pines	1
31 A	Precincts 27, 29, 39-41, 79-83, Liberty Grove	1
31 B	Precincts 1, 5, 6, 9, 14-16, 32-34	1
31 C	Precincts 12, 13, 21-23, 28, 30	1
31 D	Precincts 2, 4, 10, 11, 18, 19, 50	1
31 E	Precincts 20, 31, 52, 55-57, 61	1
31 F	Precincts 47, 51, 53, 58, 63, 64, 66	1
31 G	Precincts 24-26, 54, 59, 60, 62, 67-69	1
31 H	Precincts 49, 70-77	1
31 I	Precincts Bolton, Brownsville, Clinton 1, Clinton 2, Clinton 3, Clinton 4, Cynthia, Flag Chapel, North Clinton, Pocahontas, Presidential Hills, Tinnin	1
31 J	Precincts Cayuga, Edwards, Fairfax, Hickory, Learned, Midway, Raymond 1, Raymond 2, Van Winkle 1, Van Winkle 2	1
31 K	Precincts Briarcliff, Byram, Chapel Hill, Dry Grove, Forest Hill, Old Byram, Red Hill, Terry, Utica 1, Utica 2, Woodville Heights	1

32	Copiah and Jefferson	2
	Posts 1 and 2	
	Post 1 shall be filled by a resident of Copiah County.	
33	Adams	
	Posts 1 and 2	2
34	Amite, Franklin and Wilkinson	2
35	Pike	1
35 A	Lincoln	1
35 B	Lincoln and Pike (Floterial)	1
36	Simpson	1
37	Covington, Jefferson Davis and Lawrence	2
	Posts 1 and 2	
38	Marion and Walthall	2
	Posts 1 and 2	
39	Forrest and Lamar	4
	Posts 1, 2, 3, and 4	
40	Jones	
	Posts 1, 2 and 3	3
41	Wayne	1
42	Perry County	1
	Greene County, Supervisor	
	Districts 1, 2, 3 and 5	

43	Pearl River County	1
	Stone County, Supervisor Districts 1, 2, 3 and 4	
44	Hancock County	1
45	Harrison County	1
	Supervisor District 1	
45 A	Harrison County	1
	Supervisor District 2	
45 B	Harrison County	1
	Supervisor District 3	
45 C	Harrison County	1
	Supervisor District 4	
45 D	Harrison County	
	Supervisor District 5	1
45 E	Harrison County	
	At Large, Posts 1 and 2	2
46	Jackson County	
	Supervisor District 1	1
46 A	Jackson County	1
	Supervisor District 2	
46 B	Jackson County	1
	Supervisor District 3	
46 C	Jackson County	1
	Supervisor District 4	
46 D	Jackson County	1
	Supervisor District 5	

47	George County	1
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Greene County  
Supervisor District 4

Stone County  
Supervisor District 5

The June 5, 1975 deadline for the qualification of candidates to run for the State Senate and for the House of Representatives is not extended in those districts the identities of which have not been changed from that existing as of June 5. Those qualified on June 5 shall remain qualified in the district in which they still reside as of the effective date of this order.

In all newly formed House and Senate districts, candidates desiring hereafter to qualify shall do so no later than 5 p.m. CDST, Monday, July 21, 1975. The deadline for qualification of candidates for the Senate from the newly formed districts in Hinds County stands as prescribed in our order of June 25, 1975, to-wit: 5 p.m., July 7, 1975.

This opinion shall constitute our Findings of Fact and Conclusions of Law as herein set forth.



It is further ordered, adjudged and decreed that within ninety days of this date, the parties hereto shall file with the Clerk of this Court plans for the permanent reapportionment of the Legislature.

The first plan shall be for minimum practicable deviations from population norms without fracturing county boundaries. An alternative plan shall provide for minimum fracturing of county boundaries, in which no county shall be divided more than once, and no more than two fractured counties shall be placed in the same district. Any proposed fracture shall state if it is required to avoid dilution of black voting strength.

The alternate plans shall adhere as nearly as possible to precinct and beat lines. Thirdly, the parties may submit plans of their own composition consistently with their view of the law. The required plans may omit details as to representation from Kemper, Lauderdale, Lowndes, Noxubee and Oktibbeha counties, which are to be made the subject of special fact finding by the Court. All plans shall be accompanied by appropriate population data, calculations as to deviations from the norm, racial composition, etc.

Hoyt T. Holland, Jr. is hereby designated to serve hereafter as special master in this case, to serve under our orders and directions.

SO ORDERED, ADJUDGED, and DECREED, this the 11 day of July, 1975.

/s/ Jas. P. Coleman  
United States Circuit Judge

/s/ Dan M. Russell, Jr.  
Chief United States  
District Judge

/s/ Harold Cox  
United States District Judge

## APPENDIX

## Composition of Hinds County Districts

District	Population	% Black	% Deviation
31	18,179	0.5	+ 0.03
31A	18,427	4.9	+ 1.40
31B	17,793	6.3	- 2.09
31C	17,362	91.4	- 4.46
31D	18,483	83.8	+ 1.71
31E	18,275	49.4	+ 0.56
31F	18,722	79.0	+ 3.02
31G	17,354	9.0	- 4.51
31H	18,030	2.2	- 0.79
31I	16,184	*	-10.95
31J	16,872	*	- 7.16
31K	16,877	*	- 7.13

Districts 31 I, J, and K are outside the city of Jackson.

\* No basis exists on which an accurate racial percentage can be computed for these precincts.

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

Civil Action No. 3830(A)

[Filed July 21, 1975]

[Caption Omitted]

MOTION TO ALTER OR AMEND JUDGMENT

Plaintiffs, by their attorneys, respectfully move the Court pursuant to Rule 59, F.R. Civ. P., to alter or amend its Order of July 11, 1975, to

(a) Establish a date for approval by the Court of the permanent plan for reapportionment of the Mississippi Legislature referred to by the Court in its Order of July 11, 1975, at pp. 9, 14, 19, 22, 26, 44 and *passim*, designed to correct the racially discriminatory and mal-apportioned features of the 1975 temporary plan;

(b) Establish a specific date for special legislative elections prior to the next scheduled 1979 legislative elections to cure the defects of the 1975 temporary plan;

(c) Delete that portion of the Court's Order appointing Mr. Hoyt T. Holland, Jr., as a special master of the Court in this case; and

(d) Award plaintiffs their taxable costs, necessary expenses of the litigation and reasonable attorneys fees.

Plaintiffs respectfully request the Court to enter an order that it will render a decision on or before February 1, 1976 ordering into effect a permanent court-ordered legislative reapportionment plan for the Mississippi Legislature, and order special legislative elections in conjunction with the 1976 presidential election to cure the defects in the temporary 1975 plan.

As grounds for their motion, plaintiffs would show to the Court as follows:

A. *Dilution of Black Voting Strength.*

1. *House Plan.* The Court itself noted in its discussion of the 1975 court-ordered House districts (Order,



pp. 13-27) that there was a potential for racial dilution in some of the districts left standing by the Court, and that further study was required of House Districts 14, 17, 30, 11, 15, 23A, 23B, and 24.

There are 17 Mississippi counties which have a Black majority voting age population (BVAP). Under the 1975 court-ordered House plan, six of these counties are combined with white voting age majority counties to create district-wide white voting age population majorities, thus diluting Black voting strength:

District	No. Reps.		% Black Pop.	% Black Voting Age Pop.
30	3	Claiborne	(74.58%)	71.34%
		Warren	(40.80%)	38.15%
		Total	(47.00%)	44.29%
15	4	Issaquena	(62.00%)	54.82%
		Washington	(54.50%)	49.17%
		Total	(54.80%)	49.38%
3B	1	DeSoto	(35.14%)	30.22%
		Marshall	(61.98%)	55.91%
		Total	(45.90%)	40.51% <sup>1</sup>
23	5	Lowndes	(32.70%)	27.87%
		Noxubee	(65.77%)	58.51%
		Oktibbeha	(34.79%)	26.23%
		Total	(38.40%)	31.56% <sup>2</sup>
29	2	Sharkey	(64.7%)	56.13%
		Yazoo	(53.4%)	47.64%
		Total	(56.20%)	49.59%
34	2	Amite	(50.44%)	42.09%
		Franklin	(38.81%)	33.43%
		Wilkinson	(67.56%)	62.67%
		Total	(53.40%)	46.56%

<sup>1</sup> Districts 3, 3A, and 3B constitute a floterial district, in which DeSoto County has one direct representative, Marshall County has one direct representative, and Marshall and DeSoto combined elect one representative in District 3B.

<sup>2</sup> District 23 is floterial, but Noxubee County is combined with Oktibbeha County to form a subdistrict.

In addition, in three other House districts, Black population majority counties (1970 Census) are combined with white population majority counties to create district-wide white population majorities:

District	No. of Reps.		% Black Pop.
9	2	Panola	51.36%
		Yalobusha	40.40%
		Total	47.9%
24	4	Kemper	54.84%
		Lauderdale	30.75%
		Total	33.9%
37	2	Jefferson Davis	50.22%
		Covington	32.60%
		Lawrence	32.14%
		Total	38.5%

In the 1975 House plan, the Court created single-member districts in two counties in which plaintiffs objected to at-large, countywide voting, Hinds and Madison, and single-member subdistricts in a floterial district in a third county, Harrison. At-large, countywide voting in the House districts created by the 1975 plan submerges substantial concentrations of Black population sufficiently large to be entitled to independent representation in single-member districts in seven additional counties. Black voting strength is diluted and cancelled out by countywide white voting majorities in Washington (see District 15, above), Bolivar, Coahoma, Leflore, Sunflower, Lauderdale, and Warren Counties.

In Lauderdale and Warren Counties, House Districts 24 and 30, Blacks have sufficient population to be entitled to separate representation in majority Black single-member districts, but these substantial Black population concentrations are cancelled out in the white countywide population majorities:

House District	County	White Pop.	% White	Black Pop.	% Black	Total Pop.
24	Lauderdale	46,186	68.84%	20,630	30.75%	67,087
30	Warren	26,474	58.85%	18,355	40.81%	44,981

According to 1975 projections of racial voting age population based on 1970 Census data (Ex. P-13), Blacks are only 47.34% of the voting age population in District 17, Carroll and Leflore Counties.

Further, Blacks do not have effective countywide voting majorities in House Districts 11 (Coahoma County), 13 (Sunflower County), or 14 (Bolivar County). The optimum Black vote in each of these districts (Barber testimony, Exs. P-30, P-31) is as follows:

District	No. of Reps.	County	Optimum Black Vote
11	2	Coahoma	49.3%
13	2	Sunflower	45.6%
14	3	Bolivar	44.0%

2. *Senate Plan.* Under the 1975 court-ordered Senate plan, eight counties which have Black majority voting age population are combined with white voting age population majority counties to create district-wide white voting age population majorities, thus diluting Black voting strength:

District	No. of Senators		% Black Pop.	% Black Voting Age Pop.
1	2	DeSoto	(35.14%)	30.21%
		Lafayette	(27.73%)	20.63%
		Marshall	(61.98%)	55.91%
		Total	(40.68%)	33.97%
9	1	Quitman	(57.40%)	50.16%
		Tate	(47.24%)	38.23%
		Tunica	(72.67%)	65.99%
		Total	(57.24%)	49.01%
14	1	Grenada	(43.77%)	37.43%
		Tallahatchie	(60.15%)	51.87%
		Total	(51.85%)	44.19%
18	1	Noxubee	(65.77%)	58.51%
		Oktibbeha	(34.79%)	26.23%
		Total	(45.08%)	36.03%

District	No. of Senators		% Black Pop.	% Black Voting Age Pop.
24	2	Claiborne	(74.58%)	71.34%
		Copiah	(50.25%)	43.41%
		Lincoln	(30.67%)	25.81%
		Simpson	(31.37%)	27.15%
		Total	(42.30%)	37.13%
25	2	Adams	(47.90%)	44.05%
		Amite	(50.44%)	42.09%
		Franklin	(38.81%)	33.43%
		Jefferson	(75.26%)	69.26%
		Wilkinson	(67.56%)	62.67%
		Total	(53.37%)	47.91%

In addition, in four other Senate districts, Black population majority counties are combined with white population majority counties to create district-wide population majorities:

District	No. of Senators		% Black Pop.
8	1	Panola	51.26%
		Yalobusha	40.40%
		Total	47.9%
16	1	Carroll	50.77%
		Attala	40.38%
		Leake	35.65%
		Total	40.7%
19	2	Kemper	54.84%
		Lauderdale	30.75%
		Total	33.9%
27	3	Jefferson Davis	50.22%
		Covington	32.60%
		Lawrence	32.14%
		Jones	24.50%
		Marion	31.05%
		Total	30.3%

3. *Alternatives.* The extent to which the 1975 court-ordered plan dilutes and cancels out Black voting strength



may be shown in comparison with the other alternative plans proposed by plaintiffs and plaintiff-intervenor. In a State which is 36.9% Black, in the 1975 court-ordered House plan there are only 14 out of 84 House districts which are majority Black in voting age population (see Exhibit A, attached), and only 5 out of 39 Senate districts which are majority Black in voting age population (see Exhibit B, attached). Each of the single-member districting plans proposed by plaintiffs and plaintiff-intervenor provides more districts which are majority Black in voting age population,<sup>3</sup> not to maximize Black voting strength or create "safe" Black majority seats, but to cure the dilution of Black voting strength present in multi-member districts and countywide voting:

	Black Majority VAP House Districts	Black Majority VAP Senate Districts
1975 Court Plan	14	5
Valinsky Plan	23	7
Kirksey Plan	26	7
State Modified Plan (Dept. Just.)	29	11

#### B. Malapportionment.

4. In the House plan, the variances from population equality range from +38.694% (District 4A, Monroe County and its share of the floater representative) to -24.269% (District 25, Newton County, and its share of the floater representative), for a total deviation from population equality in the House plan of 62.963% (see Exhibit C, attached). In the Senate plan, the variances from population equality range from +9.584% (District 29, George, Greene, Perry, and Wayne Counties) to -10.708% (District 27, Jones County, and its share of

<sup>3</sup> Statistics for the Valinsky and Kirksey Plans calculated by the Department of Justice and contained in their pleading, Statistical Analysis of Plaintiffs' Exhibits 19 & 20 (Valinsky Plan) and Plaintiffs' Exhibit 33 & 34 (Kirksey Plan), filed July 3, 1975. Statistics for the State Modified Plan also calculated by the Department of Justice, and contained in their pleading, Analysis of House Bill 1290 and Senate Bill 2976 by the United States.

the floater senator), for a total deviation from population equality in the Senate plan of 20.202% (see Exhibit D, attached).

In the House plan, 11 of the 84 districts vary from population equality by more than 10% plus or minus. These are:

District 1A	-12.090%
District 3	+23.508%
District 4A	+38.694%
District 4B	-21.000%
District 11	-14.160%
District 25	-24.269%
District 31I	-10.95%
District 35	+12.900%
District 42	-12.547%
District 45D	+32.662%
District 47	-13.114%

Thirty-three of the 84 districts vary from population equality by more than 5% plus or minus.

In the Senate plan, 19 of the 39 districts vary from population equality by more than 5% plus or minus.

5. There are literally hundreds of alternatives which the Court might have chosen which would have provided greater equality of population among the districts without breaking county lines. The 1973 Report of the Interim Study Committee provided districts with smaller deviations in the House of 14.7% and in the Senate of 12.8%. The computer analysis of Dr. Gordon G. Henderson, although incomplete in terms of providing single-member districts to offset dilutions of Black voting strength, nevertheless demonstrated that it is possible without breaking any county lines to provide legislative districts with deviations from population equality of 10.62% in the House and 10.51% in the Senate. The Court could have chosen either one of these feasible alternatives, or any other alternative providing greater equality of population, as a basis for drawing new districts and making adjustments to cure dilution of Black voting strength, instead of the unconstitutional 1971 court-ordered plan which provides districts which are seriously malapportioned.

6. In addition, plaintiffs and plaintiff-intervenor presented to the Court three legislative redistricting plans providing single-member districts statewide which provide greater equality of population among the districts than the plan ordered into effect by the Court:

	House Deviation	Senate Deviation
1975 Court Plan	62.963%	20.202%
Valinsky Plan	5.39%	3.39%
Kirksey Plan	5.75%	5.01%
State Modified Plan (Dept. of Just.)	8.96%	19.68%

### C. Multi-Member Districts.

7. Under the Supreme Court's ruling in this case and *Chapman v. Meier*, — U.S. —, 42 L.Ed.2d 766 (1975), single-member districts are preferred to multi-member districts in a court-ordered legislative reapportionment plan. The 1975 court-ordered plan contains an excessively large number of multi-member and multi-member floterial districts, and therefore violates *Chapman* principles. The multi-member districts (including floterial districts) in the House plan, and the number of representatives per district, are:

District(s)	No. of Reps.
1, 1A, 1B, (flot.)	3
2	2
3, 3A, 3B, (flot.)	3
4, 4A, 4B, 4C (flot.)	5
8	2
9	2
11, 11A, 11B (flot.)	4
13	2
14	3
15	4
16	2
17	3
18	2
23, 23A, 23B (flot.)	5
24	4
25, 25A, 25B (flot.)	3

District(s)	No. of Reps.
26	2
27	2
28B	2
29	2
30	3
32	2
33	2
34	2
35, 35A, 35B (flot.)	3
37	2
38	2
39	4
40	3
43	2
45-45E (flot.)	7

Thus, 51 of the 84 districts created by the 1975 court order, electing 89 representatives out of 122, or 72.95% of the entire membership of the Mississippi House of Representatives, are multi-member districts.

The multi-member districts (including floterial districts) in the Senate plan, and the number of senators per district, are:

District(s)	No. of Senators
1	2
4	2
6	2
11	2
12	2
15	2
19	2
24	2
25	2
27, 27A, 27B (flot.)	3
30	2
32	3
33	2

Thus, 15 of the 39 senatorial districts are multi-member districts, electing 28 of the 52 senators, or 53.85% of the entire membership of the Mississippi Senate.



#### D. Special Elections

8. As indicated above, the Mississippi legislative districts as established by this Court's Order of July 11, 1975, dilute Black voting strength and are excessively malapportioned in violation of the constitutional rights of plaintiffs, the plaintiff class, and Mississippi voters generally. As a result of these constitutional violations, plaintiffs and their class will suffer immediate irreparable injury by the use of these districts for the 1975 state legislative elections. Unless the relief requested is granted, plaintiffs and the Mississippi electorate generally will be forced to suffer unconstitutional interim legislative districts for another four years until the 1979 legislative elections. If these unconstitutional districts are permitted to stand for another four years, no one can have confidence in the democratic or judicial processes for obtaining redress of grievances. A specific and firm date for the ordering into effect of a permanent plan must be set by the Court, and special legislative elections must be required. The court-ordered plan ordered in 1971 was considered by the Supreme Court on appeal to be only an interim, temporary plan for the 1971 legislative elections only. Now the Court has ordered into effect for the 1975 legislative election the same plan, with changes in House districts only for Marshall, Hinds, Harrison, Jackson, Stone, and Perry Counties, and changes in Senate districts only for Hinds County. Under these circumstances, plaintiffs cannot wait until 1979 for the denial of their constitutional rights to be vindicated.

9. The United States Supreme Court frequently has ordered special elections as a remedy for racial discrimination in voting and for unconstitutional malapportionment. *Hadnott v. Amos*, 394 U.S. 358 (1969); *Toombs v. Fortson*, 241 F. Supp. 65, 71 (N.D. Ga. 1965) (three-judge court), *aff'd*, 384 U.S. 210 (1966); *Drum v. Seawell*, 249 F. Supp. 877, 881-82 (M.D. N.C. 1965) (three-judge court), *aff'd* 383 U.S. 831 (1966); *Mann v. Davis*, 238 F. Supp. 458 (E.D. Va. 1964) (three-judge court), *aff'd sub nom. Hughes v. WMCA*, 379 U.S. 694 (1965); *Moss v. Burkhardt*, 220 F. Supp. 149 (W.D. Okla. 1963)

(three-judge court), *aff'd sub nom. Williams v. Moss*, 378 U.S. 558 (1964).

Similarly, the United States Court of Appeals for the Fifth Circuit frequently has invoked the remedy for shortening the terms of office of officials elected under an unlawful election scheme, and provided for a special election once the legal defect has been removed. *Keller v. Gilliam*, 454 F.2d 55 (5th Cir. 1972); *Hall v. Issaquena County Bd. of Supervisors*, 453 F.2d 404 (5th Cir. 1971) (Order of July 29, 1971); *Howard v. Adams County Bd. of Supervisors*, 453 F.2d 455 (5th Cir. 1972) (Order of July 29, 1971); *Smith v. Paris*, 386 F.2d 979 (5th Cir. 1967); *Hamer v. Campbell*, 358 F.2d 215 (5th Cir. 1966). This remedy is in accord with the rulings of the Mississippi Supreme Court. As the Fifth Circuit has observed,

"The Mississippi courts have also not been averse to the requiring of a new election when defects have necessitated the invalidating of the regularly scheduled election. See *Ulmer v. Currie*, 245 Miss. 285, 147 So.2d 286; *Wallace v. Leggett*, 248 Miss. 121, 158 So.2d 746; and *Hayes v. Abney*, 186 Miss. 208, 188 So. 533." *Taylor v. Monroe County Bd. of Supervisors*, 421 F.2d 1038, 1042 (5th Cir. 1970).

#### E. Appointment of the Special Master.

10. Plaintiffs object to the appointment of Mr. Hoyt T. Holland, Jr., as special master for the Court on grounds of (a) past inaccuracies in the calculation of population data in redistricting plans, and (b) the extensive prior history of Mr. Holland and his firm, Comprehensive Planners, Inc., in racial gerrymandering of the boundary lines of county supervisors' districts.

We have recalculated the population data submitted by Mr. Holland to the Court for his Hinds County single-member districting plan, using the block statistics provided by the U. S. Bureau of the Census. Computer cards were punched for each of the blocks within the City of Jackson using U. S. Census data, and these block cards were organized according to the new precincts and new House districts proposed by Mr. Holland. This check

on the calculations performed by Mr. Holland suggests the following discrepancies in the data as calculated by Mr. Holland:

District	HOLLAND			COMPUTER		
	Total Pop.	% Deviation	% Black	Total Pop.	% Dev.	% Black
1 (31)	18,179	+0.03	0.5	18,135	— .19	0.38
2 (31A)	18,427	+1.40	4.9	19,091	+5.06	33.6
3 (31B)	17,793	—2.09	6.3	18,057	— .62	6.4
4 (31C)	17,362	—4.46	91.4	16,613	—8.61	90.4
5 (31D)	18,483	+1.71	83.8	18,124	— .26	83.86
6 (31E)	18,275	+0.56	49.4	16,518	—9.13	46.16
7 (31F)	18,722	+3.02	79.0	19,058	+4.88	76.1
8 (31G)	17,354	—4.51	9.0	17,480	—3.80	5.89
9 (31H)	18,030	—0.79	2.2	18,036	— .74	.8

The data from the computer run suggest that the true deviation from population equality in the Hinds County House districts is 16.01%.

Further, the total of the population of the 12 districts devised by Mr. Holland is 2,415 less than the total population of Hinds County.

Mr. Holland and his firm were employed by the boards of supervisors to provide county redistricting plans for, among others, Hinds, Warren, Yazoo, Leake, and Grenada Counties; and in each of those cases one or more Section 5 objections were lodged by the United States Attorney General on the grounds either that the population calculations were inadequate to determine whether Black voting strength was diluted or that the redistricting plan drawn by Mr. Holland and/or C.P.I. diluted Black voting strength (Ex. P-9, Pottinger dep., and deposition exhibits). The plaintiffs, and we suggest, the Court cannot have confidence in a special master or planning firm with such an extensive record of racial gerrymandering of supervisors' districts in Mississippi.

WHEREFORE, plaintiffs pray that their motion be granted.

Respectfully submitted,

/s/ Frank R. Parker  
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Attorneys for Plaintiffs

[Certificate of Service Omitted]

[Exhibits Omitted]



IN THE  
UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

[Filed July 24, 1975]

Civil Action No. 3830 (A)

[Caption Omitted]

MOTION OF THE UNITED STATES  
FOR AMENDMENT OF JUDGMENT

The United States moves the Court, pursuant to Rule 59, F.R. Civ.P., for an amendment of its judgment, incorporated in its order of July 11, 1975, to establish a schedule for the adoption of a permanent plan of reapportionment of the Mississippi legislature and for the holding of special elections pursuant thereto.

As reasons therefor the United States states as follows:

The temporary plan ordered by the Court does not meet constitutional standards.

When elections are conducted in violation of constitutional and statutory protections of the right to vote, those elections should be set aside and new elections held.

Absent some relief, legislators will, for the second time, be elected under a plan which the Court itself considers less than satisfactory.

There is ample precedent for aborting the terms of officers elected under an interim plan or one not meeting constitutional requirements and ordering permanent relief according to a court imposed schedule after an acceptable plan is perfected.

GERALD W. JONES  
Attorney  
Department of Justice  
Washington, D.C. 20530

ROBERT E. HAUBERG  
United States Attorney

BY: /s/ L. K. Travis  
L. K. TRAVIS  
Assistant United States Attorney

[Certificate of Service Omitted]

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

Civil Action No. 3830 (A)

[Filed Aug. 1, 1975]

PEGGY J. CONNOR, ET AL., PLAINTIFFS

—vs—

WILLIAM L. WALLER, ET AL., DEFENDANTS

AND

UNITED STATES OF AMERICA, PLAINTIFF-INTERVENOR

Before COLEMAN, Circuit Judge, RUSSELL, Chief  
District Judge, and COX, District Judge.

ORDER

By this order the Court rules on the motion filed by the plaintiffs in this cause on July 21, and filed by the United States of America on July 24.

Plaintiffs move that the Court set a deadline of February 1, 1976, for the completion of a permanent plan for the reapportionment of the Mississippi Legislature. The Court expects to have such a plan approved before February 1, 1976. Understanding, however, the vagaries of litigation and not being able to foresee the future as to complications now unexpected but which might arise, the Court declines to set a deadline upon its own efforts. The Court reiterates its firm determination to have this matter out of the way before February 1, 1976.

Plaintiffs move the Court now to establish a specific date for special legislative elections, preferably in the general elections of 1976. As to all instances in which

a special election may be required, the Court expects to direct that the same shall be held in conjunction with the 1976 Presidential election so as to save the expense of special elections, as far as possible.

Plaintiffs move that that portion of the Court's order appointing Hoyt T. Holland, Jr. as special master be deleted. The Court expects to formulate its own permanent plan and the duties of Mr. Hoyt T. Holland specifically will be only to assist in that regard. It is correct that he made some errors in the data furnished for the temporary plan, but under the excruciatingly short time available the Court made some also, of a mathematical and stenographical nature.

The matter of costs and attorneys fees will be decided in the final judgment establishing the permanent plan and after the Court has had an opportunity to hear evidence and argument on the features of the case.

This disposition of the plaintiffs motion likewise disposes of the motion filed on behalf of the United States.

SO ORDERED, this the 1st day of August, 1975.

/s/ Jas. P. Coleman  
JAS. P. COLEMAN  
United States Circuit Judge

/s/ Dan M. Russell, Jr.  
DAN M. RUSSELL, JR.  
Chief United States District Judge

/s/ Harold Cox  
HAROLD COX  
United States District Judge



IN THE  
UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

Civil Action No. 3830 (A)

[Filed Aug. 1, 1975]

PEGGY J. CONNOR, ET AL., PLAINTIFFS

—vs—

WILLIAM L. WALLER, ET AL., DEFENDANTS

AND

UNITED STATES OF AMERICA, PLAINTIFF-INTERVENOR  
Before COLEMAN, Circuit Judge, RUSSELL, Chief  
District Judge, and COX, District Judge.

ORDER

It has come to the attention of the Court, via regular news media, that the United States Census Bureau has compiled and released its official estimates of the population of the State of Mississippi and its various subdivisions as of the year 1973. Said official estimates show that between 1970 and 1973 the population of the State of Mississippi increased from 2,216,994 to 2,317,022. It further shows, for example, that the population of DeSoto County between 1970 and 1973 increased from 35,885 to 46,241, while the population of Jackson County increased from 87,975 to 103,933. The population of Rankin County increased from 43,933, to 51,864. On the other hand, there were decreases in other Counties.

These being the latest and the most accurate figures available as to population in Mississippi at this time (although they are now two years out of date) it is

ORDERED that the population figures released by the United States Bureau of Census giving its population estimates as of 1973 shall be used as the basis of and for the establishment of a permanent plan of reapportionment of the Mississippi Legislature, as heretofore ordered by the Court, and which is to be completed as soon as possible hereafter, hopefully before February 1, 1976. The parties in compiling the various plans to be submitted to the Court will be governed accordingly.

ORDERED, this the 1st day of August, 1975.

/s/ Jas. P. Coleman  
JAS. P. COLEMAN  
United States Circuit Judge

/s/ Dan M. Russell, Jr.  
DAN M. RUSSELL, JR.  
Chief United States District Judge

/s/ Harold Cox  
HAROLD COX  
United States District Judge